



October 27, 2017

VIA FED EX

Andrew Guglielmi, Esq.
Associate Attorney
Office of General Counsel
NYSDEC
625 Broadway
Albany, New York 12233

Kelly Lewandowski
Director
Site Control
NYSDEC
625 Broadway
Albany, New York 12233

**Re: Tangible Property Tax Credit BCA Amendment Request for Eligibility Determination
Former Liberty Brass Site BCP Site #: C241178
38-01 Queens Blvd., Long Island City, NY**

Dear Andrew and Kelly:

Enclosed please find a BCP Amendment and package of documents, which collectively justify the eligibility of this Site for the BCP Tangible Property Tax Credits available in Tax Law §21 in accordance with the new “underutilized” site definition in 6 NYCRR §3.2(l).ⁱ :

1. UNDERUTILIZED SITE TEST No 1 [6 NYCRR §3.2(l)]: “no more than fifty percent of the permissible floor area of the building or buildings is certified by the applicant to have been used under the applicable base zoning for at least three years prior to the application, which zoning has been in effect for at least three years”. **Based on the Affidavit of Applicant Oren Sauberman, no more than fifty percent of the permissible floor area of the former on-Site building (which has since the time of this Affidavit been demolished), was being used under the applicable base zoning for at least three years prior to the application, and the same zoning was in effect for at least three years. See Exhibit A. [NOTE: Original Affidavit was provided to DEC on September 13, 2017].** SUPPLEMENTAL AFFIDAVIT REQUEST: In addition to the Oren Sauberman Affidavit, the Department recently requested an affidavit from the former owner. **An Affidavit dated October 2, 2017 by former owner Peter Zuckerwise proves that less than 50% of the permissible floor area in the building was being used the last three years his company was in ownership and operation at the Site. [NOTE: The Original of this Affidavit was provided to the Department on October 11, 2017]. See Exhibit A.**
2. UNDERUTILIZED SITE TEST No. 2 [6 NYCRR §3.2(l)(2)(i)]: “the proposed use is at least seventy-five percent for commercial or commercial and industrial uses” **See BCP Application Support Document executed under penalty of perjury that the planned use is 100% commercial and also renderings of the 100% commercial use building in Exhibit B.**

3. UNDERUTILIZED SITE TEST No. 3 [6 NYCRR §3.2(l)(2)(ii)]: “the proposed development could not take place without substantial government assistance, as certified by the municipality in which the site is located”: **As you know, we worked with OER staff to develop a certification process to demonstrate the substantial government assistance test, which included an independent financial analysis by a financial analysis expert and the development of three certification forms. HR&A was the firm selected after a competitive bidding process to perform the independent financial analysis. See HR&A Certificate and Memo Report in Exhibit C. Based on their analysis of numerous documents, they concluded the Curbcut Site met the substantive government assistance need test and was therefore, an underutilized site.**

The City requested an additional certification from the BCP Party and then in reliance upon the Final Expert Certificate and the BCP Party’s certificate, the City issued their own certification. See these two certifications are in Exhibit D.

4. UNDERUTILIZED SITE TEST No. 4 [6 NYCRR §3.2(l)(2)(iii)(b)]: “a building is presently condemned or presently exhibits documented structural deficiencies, as certified by a professional engineer, which present a public health or safety hazard”. **Based on the Structural Assessment Report prepared by The Harman Group, there were documented structural deficiencies in the former on-Site building, as certified by a professional engineer, which presented a public health or safety hazard requiring the on-Site building to be demolished. See The Harman Group Structural Assessment Report in Exhibit E.**

Curbcut Queens Blvd LLC respectfully requests NYSDEC to grant this Volunteer, which has met the underutilized test, the tangible property tax credit for this Site so that they can obtain the financing necessary to complete the remediation and the project. Thank you for your anticipated execution of the BCA Amendment approving this request.

Sincerely,

KNAUF SHAW LLP



LINDA R. SHAW

cc: Robert Filkins, Project Manager

ⁱ 6 NYCRR §3.2(l) "Underutilized" means, as of the date of application, real property on which no more than fifty percent of the permissible floor area of the building or buildings is certified by the applicant to have been used under the applicable base zoning for at least three years prior to the application, which zoning has been in effect for at least three years; and

(1) the proposed use is at least seventy-five percent for industrial uses; or
(2) at which:

-
- (i) the proposed use is at least seventy-five percent for commercial or commercial and industrial uses;
 - (ii) the proposed development could not take place without substantial government assistance, as certified by the municipality in which the site is located; and
 - (iii) one or more of the following conditions exists, as certified by the applicant:
 - (a) property tax payments have been in arrears for at least five years immediately prior to the application;
 - (b) a building is presently condemned, or presently exhibits documented structural deficiencies, as certified by a professional engineer, which present a public health or safety hazard; or
 - (c) there are no structures.

"Substantial government assistance" shall mean a substantial loan, grant, land purchase subsidy, land purchase cost exemption or waiver, or tax credit, from a governmental entity.



Department of
Environmental
Conservation

BROWNFIELD CLEANUP PROGRAM (BCP) APPLICATION TO AMEND BROWNFIELD CLEANUP AGREEMENT AND AMENDMENT

PART I. BROWNFIELD CLEANUP AGREEMENT AMENDMENT APPLICATION

Check the appropriate box below based on the nature of the amendment modification requested:

☐ Amendment to [check one or more boxes below]

- ☐ Add
- ☐ Substitute
- ☐ Remove
- ☐ Change in Name

applicant(s) to the existing Brownfield Cleanup Agreement [*Complete Section I-IV below and Part II*]

Does this proposed amendment involve a transfer of title to all or part of the brownfield site? ☒ Yes ☐ No

If yes, pursuant to 6 NYCRR Part 375-1.11(d), a Change of Use form should have been previously submitted. If not, please submit this form with this Amendment. See <http://www.dec.ny.gov/chemical/76250.html>

☐ Amendment to modify description of the property(ies) listed in the existing Brownfield Cleanup Agreement [*Complete Sections I and V below and Part II*]

☐ Amendment to Expand or Reduce property boundaries of the property(ies) listed in the existing Brownfield Cleanup Agreement [*Complete Section I and V below and Part II*]

☒ **Sites in Bronx, Kings, New York, Queens, or Richmond counties ONLY:** Amendment to request determination that the site is eligible for the tangible property credit component of the brownfield redevelopment tax credit. Please answer questions on the supplement at the end of the form.

☐ Other (explain in detail below)

Please provide a brief narrative on the nature of the amendment:

Volunteer Curbcut Queens BLVD LLC requests and approval determination that the site is eligible for the tangible property credit component of the brownfield redevelopment tax credit. The package of documents demonstrating that this site meets the underutilized site definition is attached.

Please refer to the attached instructions for guidance on filling out this application

Section I. Existing Application Information

BCP SITE NAME: Former Liberty Brass Site

BCP SITE NUMBER: C241178

NAME OF CURRENT APPLICANT(S): Curbcut Queens Blvd LLC

INDEX NUMBER OF EXISTING AGREEMENT: C241178-11₊ DATE OF EXISTING AGREEMENT: 12/18/15₊**Section II. New Requestor Information (If no change to Current Applicant, skip to Section V)**

NAME

ADDRESS

CITY/TOWN

ZIP CODE

PHONE

FAX

E-MAIL

Is the requestor authorized to conduct business in New York State (NYS)?



Yes



No

- If the requestor is a Corporation, LLC, LLP or other entity requiring authorization from the NYS Department of State to conduct business in NYS, the requestor's name must appear, exactly as given above, in the NYS Department of State's (DOS) Corporation & Business Entity Database. A print-out of entity information from the DOS database must be submitted to DEC with the application, to document that the applicant is authorized to do business in NYS.

NAME OF NEW REQUESTOR'S REPRESENTATIVE

ADDRESS

CITY/TOWN

ZIP CODE

PHONE

FAX

E-MAIL

NAME OF NEW REQUESTOR'S CONSULTANT (if applicable)

ADDRESS

CITY/TOWN

ZIP CODE

PHONE

FAX

E-MAIL

NAME OF NEW REQUESTOR'S ATTORNEY (if applicable)

ADDRESS

CITY/TOWN

ZIP CODE

PHONE

FAX

E-MAIL

Requestor must submit proof that the party signing this Application and Amendment has the authority to bind the Requestor. This would be documentation from corporate organizational papers, which are updated, showing the authority to bind the corporation, or a Corporate Resolution showing the same, or an Operating Agreement or Resolution for an LLC. Is this proof attached?

☐ Yes☐ No

Describe Requestor's Relationship to Existing Applicant:

Section III. Current Property Owner/Operator Information (only include if new owner/operator or new existing owner/operator information is provided, and highlight new information)

OWNER'S NAME (if different from requestor) Curbcut Queens Blvd LLC

ADDRESS 97-77 Queens Blvd, Suite 620

CITY/TOWN Rego Park, NY

ZIP CODE 11374

PHONE 917-750-0726

FAX

E-MAIL bm@curbcutpartners.com

OPERATOR'S NAME (if different from requestor or owner) Same as above; site in remediation

ADDRESS

CITY/TOWN

ZIP CODE

PHONE

FAX

E-MAIL

Section IV. Eligibility Information for New Requestor (Please refer to ECL § 27-1407 for more detail)

If answering "yes" to any of the following questions, please provide an explanation as an attachment.

1. Are any enforcement actions pending against the requestor regarding this site? ☐ Yes ☐ No
2. Is the requestor presently subject to an existing order for the investigation, removal or remediation relating to contamination at the site? ☐ Yes ☐ No
3. Is the requestor subject to an outstanding claim by the Spill Fund for this site? ☐ Yes ☐ No
Any questions regarding whether a party is subject to a spill claim should be discussed with the Spill Fund Administrator.
4. Has the requestor been determined in an administrative, civil or criminal proceeding to be in violation of i) any provision of the subject law; ii) any order or determination; iii) any regulation implementing ECL Article 27 Title 14; or iv) any similar statute, regulation of the state or federal government? If so, provide an explanation on a separate attachment. ☐ Yes ☐ No
5. Has the requestor previously been denied entry to the BCP? If so, include information relative to the application, such as name, address, Department assigned site number, the reason for denial, and other relevant information. ☐ Yes ☐ No
6. Has the requestor been found in a civil proceeding to have committed a negligent or intentionally tortious act involving the handling, storing, treating, disposing or transporting of contaminants? ☐ Yes ☐ No
7. Has the requestor been convicted of a criminal offense i) involving the handling, storing, treating, disposing or transporting of contaminants; or ii) that involves a violent felony, fraud, bribery, perjury, theft, or offense against public administration (as that term is used in Article 195 of the Penal Law) under federal law or the laws of any state? ☐ Yes ☐ No
8. Has the requestor knowingly falsified statements or concealed material facts in any matter within the jurisdiction of the Department, or submitted a false statement or made use of or made a false statement in connection with any document or application submitted to the Department? ☐ Yes ☐ No
9. Is the requestor an individual or entity of the type set forth in ECL 27-1407.9(f) that committed an act or failed to act, and such act or failure to act could be the basis for denial of a BCP application? ☐ Yes ☐ No
10. Was the requestor's participation in any remedial program under DEC's oversight terminated by DEC or by a court for failure to substantially comply with an agreement or order? ☐ Yes ☐ No
11. Have all known bulk storage tanks on-site been registered with DEC? ☐ Yes ☐ No

THE NEW REQUESTOR MUST CERTIFY THAT IT IS EITHER A PARTICIPANT OR VOLUNTEER IN ACCORDANCE WITH ECL §27-1405 (1) BY CHECKING ONE OF THE BOXES BELOW:

☐

PARTICIPANT

A requestor who either 1) was the owner of the site at the time of the disposal of contamination or 2) is otherwise a person responsible for the contamination, unless the liability arises solely as a result of ownership, operation of, or involvement with the site subsequent to the disposal of contamination.

☐

VOLUNTEER

A requestor other than a participant, including a requestor whose liability arises solely as a result of ownership, operation of or involvement with the site subsequent to the disposal of hazardous waste or discharge of petroleum.

NOTE: By checking this box, a requestor whose liability arises solely as a result of ownership, operation of or involvement with the site certifies that he/she has exercised appropriate care with respect to the hazardous waste found at the facility by taking reasonable steps to: i) stop any continuing discharge; ii) prevent any threatened future release; iii) prevent or limit human, environmental, or natural resource exposure to any previously released hazardous waste.

If a requestor whose liability arises solely as a result of ownership, operation of or involvement with the site, submit a statement describing why you should be considered a volunteer -- be specific as to the appropriate care taken.

Requestor's Relationship to Property (check one):

☐ Prior Owner ☒ Current Owner ☐ Potential /Future Purchaser ☐ Other _____

If requestor is not the current site owner, **proof of site access sufficient to complete the remediation must be submitted.** Proof must show that the requestor will have access to the property before signing the BCA and throughout the BCP project, including the ability to place an easement on the site Is this proof attached? ☐ Yes ☐ No

Note: a purchase contract does not suffice as proof of access.

Section V. Property description and description of changes/additions/reductions (if applicable)

ADDRESS

CITY/TOWN

ZIP CODE

TAX BLOCK AND LOT (TBL) (in existing agreement)

Parcel Address	Parcel No.	Section No.	Block No.	Lot No.	Acreage

Check appropriate boxes below:

- ☐ Changes to metes and bounds description or TBL correction
- ☐ Addition of property (may require additional citizen participation depending on the nature of the expansion – see attached instructions)

Approximate acreage added: _____

ADDITIONAL PARCELS:

Parcel Address	Parcel No.	Section No.	Block No.	Lot No.	Acreage

- ☐ Reduction of property

Approximate acreage removed: _____

PARCELS REMOVED:

Parcel Address	Parcel No.	Section No.	Block No.	Lot No.	Acreage

If requesting to modify a metes and bounds description or requesting changes to the boundaries of a site, please attach a revised metes and bounds description, survey, or acceptable site map to this application.

Supplement to the Application To Amend Brownfield Cleanup Agreement And Amendment - Questions for Sites Seeking Tangible Property Credits in New York City ONLY.

Property is in Bronx, Kings, New York, Queens, or Richmond counties.	☒ Yes ☐ No
Requestor seeks a determination that the site is eligible for the tangible property credit component of the brownfield redevelopment tax credit.	☒ Yes ☐ No
Please answer questions below and provide documentation necessary to support answers.	
1. Is at least 50% of the site area located within an environmental zone pursuant to Tax Law 21(6)? Please see <u>DEC's website</u> for more information.	☐ Yes ☒ No
2. Is the property upside down as defined below?	☐ Yes ☒ No
From ECL 27-1405(31): "Upside down" shall mean a property where the projected and incurred cost of the investigation and remediation which is protective for the anticipated use of the property equals or exceeds seventy-five percent of its independent appraised value, as of the date of submission of the application for participation in the brownfield cleanup program, developed under the hypothetical condition that the property is not contaminated.	
3. Is the project an affordable housing project as defined below?	☐ Yes ☒ No
From 6 NYCRR 375- 3.2(a) as of July 1, 2015: (a) "Affordable housing project" means, for purposes of this part, title fourteen of article twenty seven of the environmental conservation law and section twenty-one of the tax law only, a project that is developed for residential use or mixed residential use that must include affordable residential rental units and/or affordable home ownership units. (1) Affordable residential rental projects under this subdivision must be subject to a federal, state, or local government housing agency's affordable housing program, or a local government's regulatory agreement or legally binding restriction, that defines (i) a percentage of the residential rental units in the affordable housing project to be dedicated to (ii) tenants at a defined maximum percentage of the area median income based on the occupants' households annual gross income. (2) Affordable home ownership projects under this subdivision must be subject to a federal, state, or local government housing agency's affordable housing program, or a local government's regulatory agreement or legally binding restriction, that sets affordable units aside for tenants at a defined maximum percentage of the area median income. (3) "Area median income" means, for purposes of this subdivision, the area median income for the primary metropolitan statistical area, or for the county if located outside a metropolitan statistical area, as determined by the United States department of housing and urban development, or its successor, for a family of four, as adjusted for family size.	

PART II. BROWNFIELD CLEANUP PROGRAM AMENDMENT

Existing Agreement Information

BCP SITE NAME: Former Liberty Brass Site

BCP SITE NUMBER: C241178

NAME OF CURRENT APPLICANT(S): Curbcut Queen Blvd LLC

INDEX NUMBER OF EXISTING AGREEMENT: C241178-11-15

EFFECTIVE DATE OF EXISTING AGREEMENT: 12/18/15

Declaration of Amendment:

By the Requestor(s) and/or Applicant(s) signatures below, and subsequent signature by the Department, the above application to amend the Brownfield Cleanup Agreement described above is hereby approved. This Amendment is made in accordance with and subject to all of the BCA and all applicable guidance, regulations and state laws applicable thereto. All other substantive and procedural terms of the Agreement will remain unchanged and in full force and effect regarding the parties to the Agreement.

Nothing contained herein constitutes a waiver by the Department or the State of New York of any rights held in accordance with the Agreement or any applicable state and/or federal law or a release for any party from any obligations held under the Agreement or those same laws.

Statement of Certification and Signatures: New Requestor(s) (if applicable)

(Individual)

I hereby affirm that information provided on this form and its attachments is true and complete to the best of my knowledge and belief. I am aware that any false statement made herein is punishable as a Class A misdemeanor pursuant to section 210.45 of the Penal Law. My signature below constitutes the requisite approval for the amendment to the BCA Application, which will be effective upon signature by the Department.

Date: _____ Signature: _____

Print Name: _____

(Entity)

I hereby affirm that I am (title _____) of (entity _____); that I am authorized by that entity to make this application; that this application was prepared by me or under my supervision and direction; and that information provided on this form and its attachments is true and complete to the best of my knowledge and belief. I am aware that any false statement made herein is punishable as a Class A misdemeanor pursuant to Section 210.45 of the Penal Law.

_____ signature below constitutes the requisite approval for the amendment to the BCA Application, which will be effective upon signature by the Department.

Date: _____ Signature: _____

Print Name: _____

Statement of Certification and Signatures: Existing Applicant(s) (an authorized representative of each applicant must sign)

(Individual)

I hereby affirm that I am a party to the Brownfield Cleanup Agreement and/or Application referenced in Section I above and that I am aware of this Application for an Amendment to that Agreement and/or Application. My signature below constitutes the requisite approval for the amendment to the BCA Application, which will be effective upon signature by the Department.

Date: _____ Signature: _____

Print Name: _____

(Entity)

I hereby affirm that I am President (title) of Curbcut Queens Blvd LLC (entity) which is a party to the Brownfield Cleanup Agreement and/or Application referenced in Section I above and that I am aware of this Application for an Amendment to that Agreement and/or Application. _____ signature below constitutes the requisite approval for the amendment to the BCA Application, which will be effective upon signature by the Department.

Date: 10/26/17 Signature: By: [Signature], President

Print Name: Oren Sauberman

REMAINDER OF THIS AMENDMENT WILL BE COMPLETED SOLELY BY THE DEPARTMENT

Status of Agreement:

☐

PARTICIPANT

A requestor who either 1) was the owner of the site at the time of the disposal of contamination or 2) is otherwise a person responsible for the contamination, unless the liability arises solely as a result of ownership, operation of, or involvement with the site subsequent to the disposal of contamination.

☒

VOLUNTEER

A requestor other than a participant, including a requestor whose liability arises solely as a result of ownership, operation of or involvement with the site subsequent to the contamination.

Effective Date of the Original Agreement:

Signature by the Department: 12/10/15

DATED: 12/7/17

NEW YORK STATE DEPARTMENT OF
ENVIRONMENTAL CONSERVATION

By:

[Signature]
Robert W. Schick, P.E., Director
Division of Environmental Remediation

Rider to BCA Amendment #2 to Document a Tangible Property Tax Credit Determination

Site Name: Former Liberty Brass

Site Number: C241178

1- The Department has determined that the Site is eligible for tangible property tax credits pursuant to ECL § 27-1407(1-a) because the Site is located in a City having a population of one million or more and:

- ☐ At least half of the site area is located in an environmental zone as defined in section twenty-one of the tax law
- ☐ The property is upside down, as defined by ECL 27-1405 (31)
- ☒ The property is underutilized, as defined by 375-3.2(l).
- ☐ The project is an affordable housing project, as defined by 375-3.2(a).

2- The Site is located in a City having a population of one million or more and the Applicant:

☐ Has not requested a determination that the Site is eligible for tangible property tax credits. It is therefore presumed that the Site is not eligible for tangible property tax credits. In accordance with ECL § 27-1407(1-a), the Applicant may request an eligibility determination for tangible property tax credits at any time from application until the site receives a certificate of completion except for sites seeking eligibility under the underutilized category.

☐ Requested a determination that the Site is eligible for tangible property tax credits and pursuant to ECL § 27-1407(1-a), the Department has determined that the Site is not eligible for tangible property tax credits because the Applicant has not submitted documentation sufficient to demonstrate that at least one of the following conditions exists: at least half of the site area is located in an environmental zone as defined in section twenty-one of the tax law, the property is upside down, the property is underutilized, or the project is an affordable housing project. In accordance with ECL § 27-1407(1-a), the Applicant may request an eligibility determination for tangible property tax credits at any time from application until the site receives a certificate of completion except for sites seeking eligibility under the underutilized category.

3- For sites statewide, where applicable:

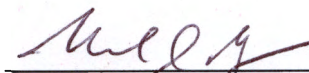
☐ In accordance with ECL § 27-1407(1-a), based on data submitted with the application the Department has determined the Site is not eligible for tangible property tax credits because the contamination in ground water and/or soil vapor is solely emanating from property other than the Site.

☐ The remedial investigation or other data generated during the remedial program the Department has identified an on-site source of contamination, which now makes this site eligible for tangible property tax credits.

☐ The Department has determined that the Site or a portion of the Site has previously been remediated pursuant to Article 27, Title 9, 13 or 14] of the ECL, Article 12 of the Navigation Law or Article 56, Title 5 of the ECL. Therefore, in accordance with ECL § 27-1407(1-a), the Site is not eligible for tangible property tax credits.

THIS RIDER TO AN AMENDMENT TO THE BCA ESTABLISHING ELIGIBILITY
FOR TANGIBLE PROPERTY TAX CREDITS IS HEREBY
APPROVED, Acting by and Through the Department of
Environmental Conservation as Designee of the Commissioner,

By:

 12/2/17

Michael J. Ryan, P.E., Asst. Director
Division of Environmental Remediation

EXHIBIT A

STATE OF NEW YORK)

) s.s.:

COUNTY OF QUEENS)

**AFFIDAVIT IN SUPPORT OF UNDERUTILIZED STATUS OF FORMER LIBERTY BRASS
SITE AT 38-01 QUEENS BLVD., LONG ISLAND CITY, NY**

OREN SAUBERMAN, President of Curbcut Queens Blvd LLC, being duly sworn, deposes and says, in his representative capacity:

1. I am the President of Curbcut Queens Blvd LLC, the volunteer for the Former Liberty Brass Site located at 38-01 Queens Blvd., Long Island City Site, which has become Brownfield Cleanup Program ("BCP") Site No. C241178 (the "Site").

2. I learned in early 2015 that due to competition from China, Liberty Brass needed to shut down its operations and Ideal wanted to sell the Site.

3. As of the date of September 2015 BCP application, I personally observed that Liberty Brass operations had been reduced to less than fifty percent (50%) of the permissible floor area in the building.

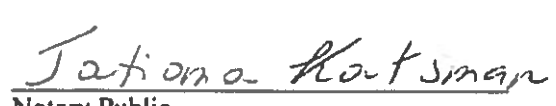
4. The Seller's principal had explained to me his business reduction had been occurring for a number of years, therefore I certify that Liberty Brass was only occupying 10,000 square feet, and that Seller's principals informed me that less than fifty percent (50%) of the permissible floor area in the building was being used for at least the last three years they occupied the Site.

5. I declare under penalty of perjury that the foregoing is true and correct.

Executed: August 3, 2016


Oren Sauberman
Curbcut Queens Blvd LLC
President

Sworn to this 3 day
of August, 2016


Notary Public

TATIANA KATSMAN
Notary Public, State of New York
No 01KA6281292
Qualified in Queens County
Term Expires May 13 2017

STATE OF NEW YORK)
) s.s.:
COUNTY OF NEW YORK)

**AFFIDAVIT IN SUPPORT OF UNDERUTILIZED STATUS OF FORMER LIBERTY
BRASS SITE AT 38-01 QUEENS BLVD., LONG ISLAND CITY, NY**

PETER ZUCKERWISE, being duly sworn, deposes and says:

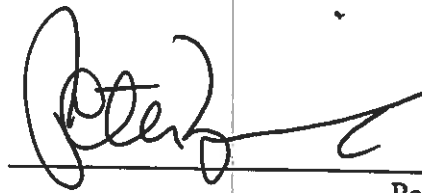
1. I am the president of Ideal Trading Co., Inc., which entity was the owner of the Former Liberty Brass Site located at 38-01 Queens Blvd., Long Island City, which has become Brownfield Cleanup Program ("BCP") Site No. C241178 (the "Site").

2. I was one of the operators of o Liberty Brass Turning Company ("Liberty Brass"), which operated at the Site. At one point in its approximately 90 year history, Liberty Brass was a large manufacturer of automatic screw machine products, which manufacturing was conducted at the Site.

3. Unfortunately, due to the foreign competition beginning in around 2010, the Liberty Brass' business began to diminish significantly. The Site was sold to Curbcut in December, 2015.

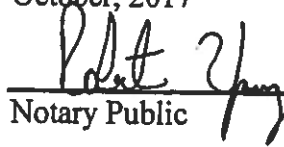
4. As of the date of Curbcut's September 2015 BCP application, the footprint of t Liberty Brass manufacturing, sales and distribution operations, which formerly occupied the entire approximately 22,500 square foot building at the Site, had been reduced to less than fifty percent (50%) of the permissible floor area of the building for at least the last three years we operated at the Site.

5. We may have had some machinery and empty storage racks and bins in unused space, but it was not being used.



Peter Zuckerwise

Sworn to before me, this 2 day of
October, 2017


Notary Public

ROBERT E. YOUNG
Notary Public, State of New York
No. 01YO6338160
Qualified in New York County
Commission Expires March 07, 2020

EXHIBIT B



Department of
Environmental
Conservation

BROWNFIELD CLEANUP PROGRAM (BCP) APPLICATION FORM

Is this application to request significant changes to property set forth in an existing Brownfield Cleanup Agreement?

☐ Yes ☐ No

If yes, fill in existing BCP project number: _____
Skip to Section IV and follow application instructions below.

PART A (note: application is separated into Parts A and B for DEC review purposes)

August 2015

Section I. Requestor Information - See Instructions for Further Guidance

DEC USE ONLY
BCP SITE #:

NAME Curbcut Queens Blvd LLC

ADDRESS 95-25 Queens Boulevard, Suite 1001

CITY/TOWN Rego Park

ZIP CODE 11374

PHONE 917-750-0726

FAX N/A

E-MAIL ben@bmstrat.com

Is the requestor authorized to conduct business in New York State (NYS)?

☒ Yes ☐ No

- If the requestor is a Corporation, LLC, LLP or other entity requiring authorization from the NYS Department of State to conduct business in NYS, the requestor's name must appear, exactly as given above, in the [NYS Department of State's Corporation & Business Entity Database](#). A print-out of entity information from the database must be submitted to the New York State Department of Environmental Conservation (DEC) with the application, to document that the requestor is authorized to do business in NYS.

Do all individuals that will be certifying documents meet the requirements detailed below? ☒ Yes ☐ No

- Individuals that will be certifying BCP documents, as well as their employers, meet the requirements of Section 1.5 of [DER-10: Technical Guidance for Site Investigation and Remediation](#) and Article 145 of New York State Education Law. Documents that are not properly certified will be not approved under the BCP.

Section II. Project Description

1. What stage is the project starting at?

☐ Investigation

☐ Remediation

2. If the project is starting at the remediation stage, a Remedial Investigation Report (RIR), Alternatives Analysis, and Remedial Work Plan must be attached (see [DER-10 / Technical Guidance for Site Investigation and Remediation](#) for further guidance).

3. If a final RIR is included, please verify it meets the requirements of Environmental Conservation Law (ECL) Article 27-1415(2): ☐ Yes ☐ No

4. Please attach a short description of the overall development project, including:

- the date that the remedial program is to start; and
- the date the Certificate of Completion is anticipated.

Section III. Property's Environmental History

All applications **must include** an Investigation Report (per ECL 27-1407(1)). The report must be sufficient to establish contamination of environmental media on the site above applicable Standards, Criteria and Guidance (SCGs) based on the reasonably anticipated use of the property.

To the extent that existing information/studies/reports are available to the requestor, please attach the following (please submit the information requested in this section in electronic format only):

1. **Reports:** an example of an Investigation Report is a Phase II Environmental Site Assessment report prepared in accordance with the latest American Society for Testing and Materials standard (ASTM E1903).

2. SAMPLING DATA: INDICATE KNOWN CONTAMINANTS AND THE MEDIA WHICH ARE KNOWN TO HAVE BEEN AFFECTED. LABORATORY REPORTS SHOULD BE REFERENCED AND COPIES INCLUDED.

Contaminant Category	Soil	Groundwater	Soil Gas
Petroleum	X	X	X
Chlorinated Solvents	X	X	X
Other VOCs	X	X	X
SVOCs			
Metals	X	X	X
Pesticides			
PCBs			
Other*			

*Please describe: Heavy use and storage of TCE and Oil throughout the Site for metal plating operations.

3. FOR EACH IMPACTED MEDIUM INDICATED ABOVE, INCLUDE A SITE DRAWING INDICATING:

- SAMPLE LOCATION
- DATE OF SAMPLING EVENT
- KEY CONTAMINANTS AND CONCENTRATION DETECTED
- FOR SOIL, HIGHLIGHT IF ABOVE REASONABLY ANTICIPATED USE
- FOR GROUNDWATER, HIGHLIGHT EXCEEDANCES OF 6NYCRR PART 703.5
- FOR SOIL GAS/ SOIL VAPOR/ INDOOR AIR, HIGHLIGHT IF ABOVE MITIGATE LEVELS ON THE NEW YORK STATE DEPARTMENT OF HEALTH MATRIX

THESE DRAWINGS ARE TO BE REPRESENTATIVE OF ALL DATA BEING RELIED UPON TO MAKE THE CASE THAT THE SITE IS IN NEED OF REMEDIATION UNDER THE BCP. DRAWINGS SHOULD NOT BE BIGGER THAN 11" X 17". THESE DRAWINGS SHOULD BE PREPARED IN ACCORDANCE WITH ANY GUIDANCE PROVIDED.

ARE THE REQUIRED MAPS INCLUDED WITH THE APPLICATION?*

(*answering No will result in an Incomplete application)

☒ Yes ☐ No

4. INDICATE PAST LAND USES (CHECK ALL THAT APPLY):

- | | | | |
|---|---|--|--|
| ☐ Coal Gas Manufacturing | ☒ Manufacturing | ☐ Agricultural Co-op | ☐ Dry Cleaner |
| ☐ Salvage Yard | ☐ Bulk Plant | ☐ Pipeline | ☐ Service Station |
| ☐ Landfill | ☐ Tannery | ☒ Electroplating | ☐ Unknown |

Other: _____

Section IV. Property Information - See Instructions for Further Guidance				
PROPOSED SITE NAME Former Liberty Brass Site				
ADDRESS/LOCATION 38-01 Queens Blvd				
CITY/TOWN Long Island City		ZIP CODE 11101		
MUNICIPALITY(IF MORE THAN ONE, LIST ALL): Long Island City, Queens, New York				
COUNTY Queens		SITE SIZE (ACRES) 0.52		
LATITUDE (degrees/minutes/seconds) 40 44 39.5N		LONGITUDE (degrees/minutes/seconds) 73 55 37.2W		
COMPLETE TAX MAP INFORMATION FOR ALL TAX PARCELS INCLUDED WITHIN THE PROPERTY BOUNDARIES. ATTACH REQUIRED MAPS PER THE APPLICATION INSTRUCTIONS.				
Parcel Address		Section No.	Block No.	Lot No.
38-01 Queens Blvd, Queens New York, 11101			219	9
1. Do the proposed site boundaries correspond to tax map metes and bounds? ☒ Yes ☐ No If no, please attach a metes and bounds description of the property.				
2. Is the required property map attached to the application? ☒ Yes ☐ No (application will not be processed without map)				
3. Is the property within a designated Environmental Zone (En-zone) pursuant to Tax Law 21(b)(6)? (See DEC's website for more information) Yes ☐ No ☒ If yes, identify census tract : _____ Percentage of property in En-zone (check one): ☐ 0-49% ☐ 50-99% ☐ 100%				
4. Is this application one of multiple applications for a large development project, where the development project spans more than 25 acres (see additional criteria in BCP application instructions)? ☐ Yes ☒ No If yes, identify name of properties (and site numbers if available) in related BCP applications: _____				
5. Is the contamination from groundwater or soil vapor solely emanating from property other than the site subject to the present application? ☐ Yes ☒ No				
6. Has the property previously been remediated pursuant to Titles 9, 13, or 14 of ECL Article 27, Title 5 of ECL Article 56, or Article 12 of Navigation Law? ☐ Yes ☒ No If yes, attach relevant supporting documentation.				
7. Are there any lands under water? ☐ Yes ☒ No If yes, these lands should be clearly delineated on the site map.				

Section IV. Property Information (continued)

8. Are there any easements or existing rights of way that would preclude remediation in these areas?
If yes, identify here and attach appropriate information. ☐ Yes ☒ No

Easement/Right-of-way Holder

Description

N/A

9. List of Permits issued by the DEC or USEPA Relating to the Proposed Site (type here or attach information)

<u>Type</u>	<u>Issuing Agency</u>	<u>Description</u>
Chemical Bulk Storage	NYSDEC	Site No. 2-00226, encompassing TCE storage and use under Liberty Brass Turning Co.
Petroleum Bulk Storage	NYSDEC	Site No. 2-045128, waste oil storage

10. Property Description Narrative – please refer to application instructions for proper format. Include sections for location, site features, current zoning and land use, past use of the site, site geology and hydrogeology, and environmental assessment.

Is the Property Description Narrative included, and in the proper format?

☒ Yes ☐ No

11. For sites located within the five counties comprising New York City, is the requestor seeking a determination that the site is eligible for tangible property tax credits?

If yes, requestor must answer questions on the supplement at the end of this form.

☒ Yes ☐ No

If this determination is not being requested in the application to participate in the BCP, the applicant may seek this determination at any time before issuance of a certificate of completion, using the BCP Amendment Application, except for sites seeking eligibility under the underutilized category.

If any changes to Section IV are required prior to application approval, a new page, initialed by each requestor, must be submitted.

Initials of each Requestor: _____

BCP application - PART B (note: application is separated into Parts A and B for DEC review purposes)

Section V. Additional Requestor Information
See Instructions for Further Guidance

DEC USE ONLY
BCP SITE NAME: _____
BCP SITE #: _____

NAME OF REQUESTOR'S AUTHORIZED REPRESENTATIVE Oren Sauberman

ADDRESS 95-25 Queens Boulevard, Suite 1001

CITY/TOWN Rego Park

ZIP CODE 11374

PHONE 917-750-0726

FAX N/A

E-MAIL ben@bmstrat.com

NAME OF REQUESTOR'S CONSULTANT Langan Engineering, Environmental, Surveying and Landscape Architecture, D.P.C

ADDRESS 21 Penn Plaza, 360 West 31st Street, 8th Floor

CITY/TOWN New York

ZIP CODE 10001-2727

PHONE 212-479-5400

FAX 212-479-5444

E-MAIL rmanderbach@Langan.com

NAME OF REQUESTOR'S ATTORNEY Knauf Shaw LLP

ADDRESS 2 State Street, Suite 1400

CITY/TOWN Rochester, NY

ZIP CODE 14614

PHONE 585-546-8430

FAX 585-546-4324

E-MAIL lshaw@nyenvlaw.com

Section VI. Current Property Owner/Operator Information – if not a Requestor

CURRENT OWNER'S NAME Ideal Trading Trading Co., Inc. Attn: CEO Peter Zuckerwise OWNERSHIP START DATE: 1950

ADDRESS 38-01 Queens Boulevard

CITY/TOWN Long Island City

ZIP CODE 11101

PHONE 718-784-2911

FAX 718-784-2038

E-MAIL N/A

CURRENT OPERATOR'S NAME Liberty Brass Turning Company, Inc.

ADDRESS 38-01 Queens Boulevard

CITY/TOWN Long Island City

ZIP CODE 11101

PHONE 718-784-2911

FAX 718-784-2038

E-MAIL N/A

IF REQUESTOR IS NOT THE CURRENT OWNER, DESCRIBE REQUESTOR'S RELATIONSHIP TO THE CURRENT OWNER, INCLUDING ANY RELATIONSHIP BETWEEN REQUESTOR'S CORPORATE MEMBERS AND THE CURRENT OWNER.

PROVIDE A LIST OF PREVIOUS PROPERTY OWNERS AND OPERATORS WITH NAMES, LAST KNOWN ADDRESSES AND TELEPHONE NUMBERS AS AN ATTACHMENT. DESCRIBE REQUESTOR'S RELATIONSHIP, TO EACH PREVIOUS OWNER AND OPERATOR, INCLUDING ANY RELATIONSHIP BETWEEN REQUESTOR'S CORPORATE MEMBERS AND PREVIOUS OWNER AND OPERATOR. IF NO RELATIONSHIP, PUT "NONE".

Section VII. Requestor Eligibility Information (Please refer to ECL § 27-1407)

If answering "yes" to any of the following questions, please provide an explanation as an attachment.

1. Are any enforcement actions pending against the requestor regarding this site? ☐ Yes ☒ No
2. Is the requestor subject to an existing order for the investigation, removal or remediation of contamination at the site? ☐ Yes ☒ No
3. Is the requestor subject to an outstanding claim by the Spill Fund for this site? Any questions regarding whether a party is subject to a spill claim should be discussed with the Spill Fund Administrator. ☐ Yes ☒ No

Section VII. Requestor Eligibility Information (continued)

4. Has the requestor been determined in an administrative, civil or criminal proceeding to be in violation of i) any provision of the ECL Article 27; ii) any order or determination; iii) any regulation implementing Title 14; or iv) any similar statute, regulation of the state or federal government? If so, provide an explanation on a separate attachment. ☐ Yes ☒ No
5. Has the requestor previously been denied entry to the BCP? If so, include information relative to the application, such as name, address, DEC assigned site number, the reason for denial, and other relevant information. ☐ Yes ☒ No
6. Has the requestor been found in a civil proceeding to have committed a negligent or intentionally tortious act involving the handling, storing, treating, disposing or transporting of contaminants? ☐ Yes ☒ No
7. Has the requestor been convicted of a criminal offense i) involving the handling, storing, treating, disposing or transporting of contaminants; or ii) that involves a violent felony, fraud, bribery, perjury, theft, or offense against public administration (as that term is used in Article 195 of the Penal Law) under federal law or the laws of any state? ☐ Yes ☒ No
8. Has the requestor knowingly falsified statements or concealed material facts in any matter within the jurisdiction of DEC, or submitted a false statement or made use of or made a false statement in connection with any document or application submitted to DEC? ☐ Yes ☒ No
9. Is the requestor an individual or entity of the type set forth in ECL 27-1407.9 (f) that committed an act or failed to act, and such act or failure to act could be the basis for denial of a BCP application? ☐ Yes ☒ No
10. Was the requestor's participation in any remedial program under DEC's oversight terminated by DEC or by a court for failure to substantially comply with an agreement or order? ☐ Yes ☒ No
11. Have all known bulk storage tanks on-site been registered with DEC? ☒ Yes ☐ No

THE REQUESTOR MUST CERTIFY THAT HE/SHE IS EITHER A PARTICIPANT OR VOLUNTEER IN ACCORDANCE WITH ECL 27-1405 (1) BY CHECKING ONE OF THE BOXES BELOW:

☐ PARTICIPANT

A requestor who either 1) was the owner of the site at the time of the disposal of hazardous waste or discharge of petroleum or 2) is otherwise a person responsible for the contamination, unless the liability arises solely as a result of ownership, operation of, or involvement with the site subsequent to the disposal of hazardous waste or discharge of petroleum.

☒ VOLUNTEER

A requestor other than a participant, including a requestor whose liability arises solely as a result of ownership, operation of or involvement with the site subsequent to the disposal of hazardous waste or discharge of petroleum.

NOTE: By checking this box, a requestor whose liability arises solely as a result of ownership, operation of or involvement with the site certifies that he/she has exercised appropriate care with respect to the hazardous waste found at the facility by taking reasonable steps to: i) stop any continuing discharge; ii) prevent any threatened future release; iii) prevent or limit human, environmental, or natural resource exposure to any previously released hazardous waste.

If a requestor whose liability arises solely as a result of ownership, operation of or involvement with the site, submit a statement describing why you should be considered a volunteer – be specific as to the appropriate care taken.

Section VII. Requestor Eligibility Information (continued)

Requestor Relationship to Property (check one):

☐ Previous Owner ☐ Current Owner ☒ Potential /Future Purchaser ☐ Other _____

If requestor is not the current site owner, proof of site access sufficient to complete the remediation must be submitted. Proof must show that the requestor will have access to the property before signing the BCA and throughout the BCP project, including the ability to place an easement on the site Is this proof attached?

☒ Yes ☐ No

Note: a purchase contract does not suffice as proof of access.

Section VIII. Property Eligibility Information - See Instructions for Further Guidance

1. Is / was the property, or any portion of the property, listed on the National Priorities List?
If yes, please provide relevant information as an attachment. ☐ Yes ☒ No
2. Is / was the property, or any portion of the property, listed on the NYS Registry of Inactive Hazardous Waste Disposal Sites pursuant to ECL 27-1305?
If yes, please provide: Site # _____ Class # _____ ☐ Yes ☒ No
3. Is / was the property subject to a permit under ECL Article 27, Title 9, other than an Interim Status facility?
If yes, please provide: Permit type: _____ EPA ID Number: _____
Date permit issued: _____ Permit expiration date: _____ ☐ Yes ☒ No
4. If the answer to question 2 or 3 above is yes, is the site owned by a volunteer as defined under ECL 27-1405(1)(b), or under contract to be transferred to a volunteer? Attach any information available to the requestor related to previous owners or operators of the facility or property and their financial viability, including any bankruptcy filing and corporate dissolution documentation. ☐ Yes ☐ No
5. Is the property subject to a cleanup order under Navigation Law Article 12 or ECL Article 17 Title 10?
If yes, please provide: Order # _____ ☐ Yes ☒ No
6. Is the property subject to a state or federal enforcement action related to hazardous waste or petroleum?
If yes, please provide explanation as an attachment. ☐ Yes ☒ No

Section IX. Contact List Information

To be considered complete, the application must include the Brownfield Site Contact List in accordance with DER-23 / Citizen Participation Handbook for Remedial Programs. Please attach, at a minimum, the names and addresses of the following:

1. The chief executive officer and planning board chairperson of each county, city, town and village in which the property is located.
2. Residents, owners, and occupants of the property and properties adjacent to the property.
3. Local news media from which the community typically obtains information.
4. The public water supplier which services the area in which the property is located.
5. Any person who has requested to be placed on the contact list.
6. The administrator of any school or day care facility located on or near the property.
7. The location of a document repository for the project (e.g., local library). In addition, attach a copy of an acknowledgement from the repository indicating that it agrees to act as the document repository for the property.
8. Any community board located in a city with a population of one million or more, if the proposed site is located within such community board's boundaries.

Section X. Land Use Factors

1. What is the current zoning for the site? What uses are allowed by the current zoning?

☐ Residential ☒ Commercial ☒ Industrial

If zoning change is imminent, please provide documentation from the appropriate zoning authority.

2. Current Use: ☐ Residential ☐ Commercial ☒ Industrial ☒ Vacant ☐ Recreational (check all that apply)

Attach a summary of current business operations or uses, with an emphasis on identifying possible contaminant source areas. If operations or uses have ceased, provide the date.

3. Reasonably anticipated use Post Remediation: ☐ Residential ☒ Commercial ☐ Industrial (check all that apply) **Attach a statement detailing the specific proposed use.**

If residential, does it qualify as single family housing?

☐ Yes ☐ No

4. Do current historical and/or recent development patterns support the proposed use?

☒ Yes ☐ No

5. Is the proposed use consistent with applicable zoning laws/maps? Briefly explain below, or attach additional information and documentation if necessary.

See Support Material.

☒ Yes ☐ No

6. Is the proposed use consistent with applicable comprehensive community master plans, local waterfront revitalization plans, or other adopted land use plans? Briefly explain below, or attach additional information and documentation if necessary.

There is no master plan in place for the Site location.

☒ Yes ☐ No

XI. Statement of Certification and Signatures

(By requestor who is an individual)

If this application is approved, I acknowledge and agree to execute a Brownfield Cleanup Agreement (BCA) within 60 days of the date of DEC's approval letter. I hereby affirm that information provided on this form and its attachments is true and complete to the best of my knowledge and belief. I am aware that any false statement made herein is punishable as a Class A misdemeanor pursuant to section 210.45 of the Penal Law.

Date: _____

Signature: _____

Print Name: _____

(By a requestor other than an individual)

I hereby affirm that I am President (title) of Curbside Queens Blvd LLC (entity); that I am authorized by that entity to make this application and execute the Brownfield Cleanup Agreement (BCA) and all subsequent amendments; that this application was prepared by me or under my supervision and direction. If this application is approved, I acknowledge and agree to execute a BCA within 60 days of the date of DEC's approval letter. I hereby affirm that information provided on this form and its attachments is true and complete to the best of my knowledge and belief. I am aware that any false statement made herein is punishable as a Class A misdemeanor pursuant to Section 210.45 of the Penal Law.

Date: 8/5/15

Signature: _____

Print Name: Oren Sauberman

SUBMITTAL INFORMATION:

- Two (2) copies, one paper copy with original signatures and one electronic copy in Portable Document Format (PDF), must be sent to:
 - Chief, Site Control Section
 - New York State Department of Environmental Conservation
 - Division of Environmental Remediation
 - 625 Broadway
 - Albany, NY 12233-7020

FOR DEC USE ONLY

BCP SITE T&A CODE: _____ LEAD OFFICE: _____

Supplemental Questions for Sites Seeking Tangible Property Credits in New York City ONLY. Sufficient information to demonstrate that the site meets one or more of the criteria identified in ECL 27 1407(1-a) must be submitted if requestor is seeking this determination.

August 2015

Property is in Bronx, Kings, New York, Queens, or Richmond counties.	☒ Yes ☐ No
Requestor seeks a determination that the site is eligible for the tangible property credit component of the brownfield redevelopment tax credit.	☒ Yes ☐ No
Please answer questions below and provide documentation necessary to support answers.	
1. Is at least 50% of the site area located within an environmental zone pursuant to NYS Tax Law 21(b)(6)? Please see DEC's website for more information.	☐ Yes ☐ No
2. Is the property upside down or underutilized as defined below?	☒ Yes ☐ No
From ECL 27-1405(31):	☐ Yes ☐ No
"Upside down" shall mean a property where the projected and incurred cost of the investigation and remediation which is protective for the anticipated use of the property equals or exceeds seventy-five percent of its independent appraised value, as of the date of submission of the application for participation in the brownfield cleanup program, developed under the hypothetical condition that the property is not contaminated. From 6 NYCRR 375-3.2(l) as of July 1, 2015: (Please note: Eligibility determination for the underutilized category can only be made at the time of application) (l) "Underutilized" means, as of the date of application, real property: (1) on which a building or buildings, can be certified by the municipality in which the site is located, to have for at least five years used no more than fifty percent of the permissible floor area under the applicable base zoning immediately prior to the application which has been in effect for at least five years; (2) at which the proposed development is solely for a use other than residential or restricted residential; (3) which could not be developed without substantial government assistance, as certified by the municipality in which the site is located; and (4) which is subject to one or more of the following conditions, as certified by the municipal department responsible for such determinations of the municipality in which the site is located: (i) property tax payments have been in arrears for at least five years immediately prior to the application; (ii) contains a building that is presently condemned, or presently exhibits documented structural deficiencies, as certified by a professional engineer, which present a public health or safety hazard; or (iii) the proposed use is in whole or in substantial part for industrial uses. "Substantial government assistance" shall mean a substantial loan, grant, land purchase subsidy, or land purchase cost exemption or waiver, from a governmental entity; or for properties to be developed in whole or in part for industrial uses, a substantial loan, grant, land purchase subsidy, land purchase cost exemption or waiver, or a tax credit, from a governmental entity, or a low-cost loan from an industrial fund managed by the municipality and partner financial institutions.	

Supplemental Questions for Sites Seeking Tangible Property Credits in New York City (continued)

3. Is the project an affordable housing project as defined below?

☐ Yes ☐ No

From 6 NYCRR 375- 3.2(a) as of July 1, 2015:

(a) "Affordable housing project" means, for purposes of this part, title fourteen of article twenty seven of the environmental conservation law and section twenty-one of the tax law only, a project that is developed for residential use or mixed residential use that must include affordable residential rental units and/or affordable home ownership units.

(1) Affordable residential rental projects under this subdivision must be subject to a federal, state, or local government housing agency's affordable housing program, or a local government's regulatory agreement or legally binding restriction, that defines (i) a percentage of the residential rental units in the affordable housing project to be dedicated to (ii) tenants at a defined maximum percentage of the area median income based on the occupants' households annual gross income.

(2) Affordable home ownership projects under this subdivision must be subject to a federal, state, or local government housing agency's affordable housing program, or a local government's regulatory agreement or legally binding restriction, that sets affordable units aside for tenants at a defined maximum percentage of the area median income.

(3) "Area median income" means, for purposes of this subdivision, the area median income for the primary metropolitan statistical area, or for the county if located outside a metropolitan statistical area, as determined by the United States department of housing and urban development, or its successor, for a family of four, as adjusted for family size.

BCP Application Summary (for DEC use only)

Site Name: Former Liberty Brass Site
City: Long Island City

Site Address: 38-01 Queens Blvd
County: Queens **Zip:** 11101

Tax Block & Lot
Section (if applicable): **Block:** 219 **Lot:** 9

Requestor Name: Curbcut Queens Blvd LLC
City: Rego Park

Requestor Address: 95-25 Queens Boulevard, Suite 1001
Zip: 11374 **Email:** ben@bmstrat.com

Requestor's Representative (for billing purposes)

Name: Oren Sauberman
City: Rego Park

Address: 95-25 Queens Boulevard, Suite 1001
Zip: 11374 **Email:** ben@bmstrat.com

Requestor's Attorney

Name: Knauf Shaw LLP
City: Rochester, NY

Address: 2 State Street, Suite 1400
Zip: 14614 **Email:** ishaw@nyenvlaw.com

Requestor's Consultant

Name: Langan Engineering, Environmental, Surveying and Landscape Architecture, D.P.C.
City: New York

Address: 21 Penn Plaza, 360 West 31st Street, 8th Floor
Zip: 10001-27 **Email:** rmandarbach@Langan.com

Percentage of site within an En-Zone: ☒ 0% ☐ <50% ☐ 50-99% ☐ 100%

Requestor's Requested Status: ☒ Volunteer ☐ Participant

**BCP APPLICATION
SUPPORT
DOCUMENT**

BCP APPLICATION SUPPORT DOCUMENT
Exhibit List

- Exhibit A - DOS NY Corporation Information and Corporate Documents**
- Exhibit B- Title Report including Deed**
- Exhibit C - Site Location Map, Base Map, and Photographs**
- Exhibit D - Site Access Agreement**
- Exhibit E - Legal Description**
- Exhibit F - Tax Map**
- Exhibit G - Site Contact List**
- Exhibit H - Data Summaries, Maps, Tables and Site Drawing**
- Exhibit I - Zoning Map**
- Exhibit J- Previous Owners and Operators List**
- Exhibit K- Repository Letter**
- Exhibit L- FEMA Flood Map**

ENVIRONMENTAL REPORTS SEPARATELY ATTACHED ON CD:

- Jacques Whitford Company, Inc. Phase I Environmental Site Assessment dated May 7, 2007
- VERTEX Phase II Limited Subsurface Investigation of 38-01 Queens Boulevard dated June 18, 2007
- VERTEX Phase II Limited Subsurface Investigation of 38-01 Queens Boulevard dated August 23, 2007
- Advanced Cleanup Technologies Subsurface Investigation Report of 38-01 Queens Boulevard dated December 11, 2007
- PVE Sheffler Phase I Environmental Assessment of 38-01 Queens Boulevard dated April 3, 2015

SECTION I - REQUESTOR INFORMATION

The Requestor is Curbcut Queens Blvd LLC ("Curbcut"), which is a New York State limited liability corporation. *See* Exhibit A, DOS Filing and other Corporate Documents. The Requestor's relationship to the subject 0.52 acre brownfield site further described in Section IV.10.D is that of a prospective purchaser of the Site that is the subject of this application located at 38-01 Queens Boulevard, Long Island City, New York (the "Brownfield Site" or "Site"). The Requestor has no prior relationship with the owner of the Brownfield Site (Ideal Trading Co., Inc. *see* Deed in Exhibit "B") and did not cause any of the contamination of the Site. Additionally, the requestor has no relationship with any past or current owners and operators of the Site. The member consent form provides that Oren Sauberman has authority to sign all Brownfield Cleanup Program (BCP) documents on behalf of Curbcut Queens Blvd LLC. *See* Exhibit D, Site Access Agreement.

SECTION II - PROJECT DESCRIPTION

[Please refer to Questions 1-3 on the BCP Application Form]

4. Short Project Description

The project will rehabilitate this currently underutilized area since the current Liberty Brass operation is permanently closing and would otherwise be a vacant, contaminated parcel. The project will provide new jobs, while at the same time adding new retail opportunities in a cleaner, remediated environment.

To the extent additional adjacent brownfield sites are purchased, a larger project may be developed with a supermarket and potential community center, retail space, office space, and parking. The project will span the entire footprint of the proposed Brownfield Site. The project will provide attractive shopping options since the Site is adjacent to the subway and the Site's location between the work environments to the east and the residential environments to the west.

The planned commercial retail project will greatly benefit the community, as it is providing new commercial retail amenities for this expanding neighborhood. The project includes 17,468 sq ft of retail and 106,513 sq ft of office space, as well as 22,506 sq ft of community space (gymnasium). This project will also include 48 parking spaces. Curbcut's project is starting at the investigation stage. Costs of the project have yet to be determined, although a Track 1 remediation is likely to be the planned remediation. One of the environmental reports includes an approximate \$500,000 cleanup cost, but the consultant, Langan, believes the cleanup will be much higher.

Schedule- Commencement through COC

It is important to note that this is an "as-of-right" project, since the site is properly zoned for the proposed use. Therefore the schedule below only includes an approximate investigation/remediation timeline for the project and the basic integration with the construction

of the project:

November 2015

December 2015 - June 2016

July 2016

December 2016

Acceptance into NYS Brownfield Cleanup Program

Acceptance/Approval of the Remedial Investigation Report (RIR) and Remedial Action Work Plan (RAWP) or Preparation of a Remedial Investigation Work Plan (RIWP) if DEC contends the original RIR is not complete

Completion of Remediation Work (possibly earlier if original RIR and RAWP are accepted)

Certificate of Completion (possibly earlier if original RIR and RAWP are accepted)

SECTION III – PROPERTY’S ENVIRONMENTAL HISTORY

1. List of Environmental Reports

The following is the list of environmental reports for the Site:

- A. Jacques Whitford Company, Inc. Phase I Environmental Site Assessment dated May 7, 2007
- B. VERTEX Phase II Limited Subsurface Investigation of 38-01 Queens Boulevard dated June 18, 2007.
- C. VERTEX Phase II Limited Subsurface Investigation of 38-01 Queens Boulevard dated August 23, 2007
- D. Advanced Cleanup Technologies Subsurface Investigation Report of 38-01 Queens Boulevard dated December 11, 2007
- E. PVE Sheffler Phase I Environmental Assessment of 38-01 Queens Boulevard dated April 3, 2015

A. Jacques Whitford Company, Inc. Phase I Environmental Site Assessment (ESA) dated May 7, 2007

Jacques Whitford (now known as Stantec) conducted this Phase I ESA for a lender, Premium Capital New York, Inc., to evaluate the current and historical conditions of the property and determine if recognized environmental conditions (RECs) were present. The ESA included a record review and site reconnaissance.

Jacques Whitford concluded that seven RECs were located on the Site:

- Facility Operations that could have resulted in Site contamination
- Historical Uses that could have resulted in Site Contamination
- Underground and Above Ground Storage Tanks (USTs and ASTs, respectively)
- Oil and Hazardous Material Use or Storage

- Petroleum and Chemical Staining
- Adjoining Properties that could have resulted in Site Contamination
- Regulatory Review, which revealed history of incidents that may have caused contamination

With regard to the Facility Operations and Historical Operations RECs, Jacques Whitford stated that the current Liberty Brass Turning Company (which is still operating at the Site) utilized the Site at that time for the manufacturing of metal parts and screws. The operation involves the use of oil and TCE stored in USTs and ASTs throughout the Site. The consultant noted that the Site had chemical stains throughout, where TCE and oil spilled or leaked from manufacturing equipment. The Phase I ESA noted that the Site had been used for various metal manufacturing operations since 1936 and that Liberty Brass commenced its metal manufacturing in 1950.

With regard to the AST and UST and Oil and Hazardous Material Use or Storage RECS, the ESA states that the presence of so many storage tanks on the property with a history of storing fuel oil, lubricating oil, hydraulic oil, and trichloroethylene represent significant RECs.

With regard to the heavy petroleum and chemical staining throughout the site, and the past NYSDEC spill on the site (# 0613333), evidence of staining and the spill were noted as RECs.

With regard to the Adjoining Properties REC, the report discussed the adjoining site uses that could have contributed contamination to the Site, including: a gasoline station, garages, auto repair, warehouses, manufacturers, parking lots, rolling skating rink, and wrecking facilities.

With regard to the Regulatory Review REC, the report discusses how the Site is listed in Environmental Data Resources Inc.'s databases for ASTs, USTs, RCRA-SQG, and FINDS. The AST listing relates to two 1,000 gallon ASTs, one 250 gallon AST, and a 285 gallon AST. These ASTs contain lube oil, TCE, and waste oil. The Phase I ESA concludes historical and consistent use of TCE on the Site poses a REC. The UST listing relates to one 5,000 gallon UST from 1950 with an associated NYSDEC Spill No. 0613333. This UST was closed on place, but the presence of the UST poses a REC. Lastly, the listing of the Site as a RCRA-SQG or small quantity generator poses a REC because hazardous substances were used and hazardous waste generated that could have resulted in Site contamination. Finally, the FINDS listing at the Site is likely due to the listing of the Site in the RCRA-SQG database.

The Phase I ES concluded a Phase II Investigation of the RECs should be performed.

B. VERTEX Phase II Limited Subsurface Investigation of 38-01 Queens Boulevard dated June 18, 2007.

This Phase II investigation was performed for Premium Capital New York, Inc., and included the installation, sampling, and screening of 11 soil borings within the building located on the Site. The Site is currently developed with a one-story building that is used for the production of metal parts and screws. The Phase II was conducted in response to a Phase I Environmental Site Assessment conducted by Jacques Whitford Company, Inc. in May 2007.

The Phase II was conducted with 11 interior soil borings and the collection of soil samples for field screening as well as laboratory testing. The Phase II included a laboratory analysis of 15 soil samples to identify volatile organic compounds (VOCs), semi-volatile organic compounds (SVOCs) and metals. Trichloroethene (TCE) was found above regulatory standards near the loading dock of the building as well as near the parts washer. *See Figure 2 in this Report.*

Specifically, borings B-1 and B-11 were placed in the eastern portion of the building since this location was down gradient from the filling station located to the east in Block 219 Lot 34. Borings B-2 and B-3 were advanced in the northern portion of the Site due to the presence of an abandoned 5,000 gallon fuel oil UST tank and is the general location used to store drums. Borings B-4 and B-5 were placed in the building's partial basement boiler room near petroleum staining. Boring B-6 was advanced in the location of the 250-gallon AST containing waste oil. Boring B-7, B-8, and B-9 were placed in the western portion of the building to assess the impacts of three abandoned USTs. Lastly, boring B-10 was placed in the southwest portion of the building near the former TCE AST and TCE parts washer. They were all advanced to approximately 19 feet until heavy cobblestones and gravel was encountered.

The report concluded that there have been several releases to the subsurface soil in at least two locations at the site. These include: 1) the area of the abandoned 5,000-gallon UST/floor drain in the northern portion of the site, and 2) in the area of the former TCE tank. TCE was detected in every sample taken, especially in the area of the abandoned 5,000-gallon UST/floor drain. Roughly 24% of those detections exceeded the NYSDEC Unrestricted SCOs. *See Exhibit H, Soil and Sediment Data Summary Chart.* VERTEX stated that additional investigation is necessary to confirm the horizontal extent of the TCE release, and to document TCE concentrations in the groundwater. Further, a significantly elevated TCE concentration was also detected in the area of the former TCE tank. This detection also exceeded the Unrestricted SCO. The source of the TCE is assumed to be the former TCE tank, however the vertical and horizontal extent of the TCE release in this area is not known.

The investigation also found concentrations of five SVOCs, benzo(a)anthracene, benzo(b)fluoranthene, benzo(k)fluoranthene, benzo(a)pyrene and indeno[1,2,3-c,d]pyrene, all with exceedances of the Unrestricted SCOs in the area of the abandoned 5,000-gallon UST. Notably, benzo(a)pyrene had a detection that exceeded the NYSDEC Commercial SCO in the area of the abandoned 5,000-gallon UST. *See Exhibit H, Soil and Sediment Data Summary Chart.*

Also, significant elevated metal concentrations were detected in the area of the abandoned 5,000-gallon UST and the Former TCE tank (Arsenic, Chromium, Lead, and Mercury). These detections exceeded the Unrestricted SCOs. In fact, Chromium was detected in every sample taken, except in the sample it was not analyzed in, B-1(12-16), and all of those detections exceeded the Unrestricted SCOs. It is important to note that detections of Lead and Mercury exceeded the Commercial SCOs, primarily in the area of the abandoned 5,000-gallon UST. *See Exhibit H, Soil and Sediment Data Summary Chart.*

VERTEX recommended that the identified releases be reported to NYSDEC, and that additional response actions (i.e. subsurface investigations, remediation, etc.) be performed under a

voluntary agreement with NYSDEC in order to obtain a no further action status for the Site. Furthermore, based on the observed concentrations of TCE and heavy metals, some soil may require transportation and off-site disposal as hazardous waste. Depending on the extent of the subgrade garage and configuration of the proposed development project, and if groundwater has been impacted by the release, additional remedial activities and/or institutional controls (i.e. vapor barriers) may be required.

C. VERTEX Phase II Limited Subsurface Investigation 38-01 Queens Boulevard dated August 23, 2007.

A second Phase II report was prepared on August 23, 2007. The purpose of this additional subsurface investigation was to assess the soil, soil gas, and groundwater conditions at the Site. Specifically, this Report was intended to further delineate the horizontal depth and extent of the TCE contamination, and to better document the extent of TCE concentration in groundwater.

Two permanent monitoring wells and three permanent soil gas points were installed at the Site. The soil boring were advanced to assess the areas of concern noted in the initial Phase II. Specifically, soil boring VB-1/VMW-1 and VB-2/VMW-2 were advanced in the western portion of the Site; the areas of the abandoned 5,000-gallon UST and the Former TCE tank. The Soil gas point, SGW-1, was advanced on the northern portion of the Site, adjacent to the former abandoned 5,000-gallon UST, and the other soil gas points, SGW-2 and SGW-3, were advanced on the western portion of the Site in the sidewalk right-of-way adjacent to the two permanent monitoring wells (VWM-1 and VWM-2). *See Figure 2 of this Report.*

Soil samples from VB-1 and VB-2 showed TCE concentrations of 1.8 mg/kg and .43 mg/kg, respectively. The detections in VB-1 exceeds the Unrestricted SCO of .47 mg/kg. Additionally, both borings VB-1 and VB-2 detected Arsenic, Barium, Cadmium, Chromium, Lead, Mercury, Selenium, and Silver. Exceedances of the Unrestricted SCOs were detected for Chromium, Lead, and Mercury. More importantly, Mercury was detected at a level exceeding the Commercial SCO in an area near the abandoned 5,000-gallon UST. *See Exhibit H, Soil and Sediment Data Summary Chart.*

Groundwater samples collected from VWM-1, the area near the abandoned 5,000-gallon UST, identified TCE and Methly tert-Butyl Ether (MTBE) at concentrations that exceed the Part 703 Water Class GA standards. *See Exhibit H, Groundwater Data Summary Chart.* Approximately 1/10 of an inch of free phase petroleum product was identified on the groundwater table during sample VMW-1, and therefore, groundwater in this area has been impacted by a release of petroleum. Further investigation should be performed to determine the nature and extent of this release.

The Soil gas samples collected detected Acetone, Benzene, Carbon Disulfide, cis-1,2, Dichloroethene, TCE, Toulene, Tetrachloroethene (PCE), and m,p-xylene. Notably, TCE was detected in every soil gas sample, at significantly high concentrations (670,000, 29,000, and 47,000 mcg/m³) that exceed the New York State Department of Health Indoor (NYSDOH) Air Guidance Values of 5 mcg/m³. PCE was also detected at a level that exceeded those Air Guidance Values. *See Exhibit H, Soil Gas Data Summary Chart.*

This second VERTEX Phase II concluded that additional testing should be conducted to determine if there is a TCE source below the building. Also, the report suggests the need for further investigation into the extent of the petroleum contamination found in the northwest corner of the Site.

D. Advanced Cleanup Technologies Subsurface Investigation Report 38-01 Queens Boulevard dated December 11, 2007

On December 11, 2007, Advanced Cleanup Technologies (ACT) prepared a subsurface investigation report of the Site. The investigation was conducted to determine Site specific information including groundwater flow, groundwater quality beneath the loading dock, soil vapor qualities under the building, and impacted soil analysis. The central focus of this investigation was to further delineate areas of concern while installing a monitoring well, MW-3, approximately 53 feet deep, next to the two most contaminated TCE borings on the Site as determined by the VERTEX Phase II investigations. This was the only well installed in the building because it was the only location where a drilling rig could be placed in the building to drill the appropriate depth.

The groundwater results showed the detection of twelve (12) VOCs in MW-3. Five (5) of those VOCs detected exceeded the Part 703 Water Class GA Standards (MTBE, Benzene, 1,2,4,5, Tetramethylbenzene, Isopropylbenzene, n-Propylbenzene, and Naphthalene). All of these VOCs are commonly associated with petroleum products such as gasoline.

Sediment samples were collected from the northern portion of the property; from the base of the eastern loading dock floor drain (SD-01) and the dirt-bottom interior sump (SD-02). Twenty-one (21) VOCs were detected in SD-01. *See* Table 3 in Report. Five (5) of those VOCs exceeded the Unrestricted SCO (cis-1,2-Dichloroethene, Trichloroethene, Vinyl Chloride, Acetone, and t-1,2-Dichloroethene). *See* Soil and Sediment Summary Chart in Exhibit H. Also, total xylenes were detected in SD-01 at a level that exceeds the Unrestricted SCOs. *See* Exhibit H. Furthermore, twenty-three (23) metals were detected in SD-01, ten (10) of which had exceedances of the Unrestricted SCOs. Four (4) of those metal detections also significantly exceeded the Commercial SCOs (Cadmium, Lead, Copper, and Zinc). Additionally, SD-02 had detections of twenty-three (23) metals; nine (9) of which exceeded the Unrestricted SCOs. The same four metals found in SD-01 that exceeded the Commercial SCOs, were also detected exceedances in SD-02. *See* Exhibit H.

ACT estimated that approximately 4,000 tons of impacted soil is present beneath the Site, and that the cost to transport and dispose of the impacted soil at a licensed disposal facility is estimated to be \$540,000. ACT recommended that NYSDOH be contacted to arrange interior air sampling of the properties to the north of the subject property; NYSDEC should be contacted to arrange a pre-application meeting under the Brownfield Cleanup Program; and an Interim Remedial Measures Work Place be prepared and submitted to NYSDOH and NYSDEC to mitigate the migration of soil vapors into building at the subject property and properties to the north.

E. PVE Sheffler Phase I Environmental Assessment of 38-01 Queens Boulevard dated April 3, 2015

This Phase I report prepared for a prospective purchaser, AKI Development, identified RECs with respect to contaminants covered within the scope of CERCLA and petroleum products. A detailed Site history was included in this report stating that metal plating commenced at the Site as early as 1936. Around 1950, the facility had two different types of manufacturing: a perfume business in the western side of the Site and recording equipment manufacturing in the eastern side of the Site. From 1970 to 2006, Fire Insurance Maps show that the site was divided; the eastern portion listed as "Manufacturing Screw Machine Products," and the western portion listed as "Harow Manufacturing." See Section 6.4 of this Report. Additionally, the historic uses of the surrounding parcels were mapped and researched. The Site housed operations for Imperial Metal Manufacturing in 1936. According to the 1950 Sanborn map, the property was subdivided into manufacturing facilities for perfume and recording equipment. The building reverted back to screw manufacturing products and Hardware manufacturing from 1970 to 2006.

This Phase I identified three (3) RECs:

- The first REC was a film of oil observed covering machinery, flooring, and in some instances, pooling on the floor at the base of the machinery. Speedi dry and saw dust was present throughout the facility in an attempt to absorb the oil
- The second REC was a total of four floor drains observed throughout the property. Two were located in the vicinity of the closed-in-place UST and two were located in the basement. The discharge location of these drains is unknown.
- Lastly, the NYSDEC Spill #8904831, located 48 feet southwest of the subject property, occurred on August 15, 1989 when NYSDEC was made aware of a tank test failure. Multiple monitoring wells and borings were installed in an effort to delineate contamination due to failed gasoline tanks at the location of a former Sunoco gas station. As a component of a remedial action work plan, an air sparging system was installed in 2006; the system was shut down in 2007 due to poor recovery. Additional monitoring wells were installed in 2010. Three 4,000-gallon and one 1,000-gallon USTs were removed in 2011. However, the spill file remains open. As a result, the Report concluded a vapor encroachment issue could be present on this Site from the adjacent spill site. PVES/LEG personnel submitted an information request to the NYSDEC regarding the spill file on March 31, 2015. (We followed up with them on 8.20.2015 but have not heard back.)

Additionally, the study mentions three (3) de Minimis RECs present on the site: (1) the presence of multiple ASTs on the Site (one 1,000-gallon fuel tank, one 1,000-gallon cutting oil tank; one 250-gallon waste oil tank and multiple tanks associated with the compressors on Site); (2) 55 gallon drums of regulated material located on the Site; (3) a history of two violations as a small quantity hazardous waste generator pertaining to "pre-transport" and "listing".

The Phase I also mentions five (5) data gaps during their study: (1) The ownership records were incomplete and a title search was not performed; (2) 5 year gaps present during which it was unclear what historical site operations occurred; (3) there was no interview of past/present

owners and operators; (4) the current operators did not fill out there questionnaire regarding the RECs on the site; and lastly (5) the FOIL requests submitted were not received by the date of the Report.

The Phase I report recommended a Phase II Investigation be conducted to focus on areas that may have been adversely impacted by Site owners. Specifically, they suggested investigation, including sampling and analysis of soil, groundwater, and soil vapor in the areas that may have been adversely affected by the historical site operations.

2. Sampling Data

See Exhibit H, Data Summaries, Maps, Tables and Site Drawing and Section IV.10.F.

3. Site Drawing

See Exhibit H, Data Summaries, Maps, Tables and Site Drawing.

4. Past Land Uses

See Section IV.10.D for full description of past land uses.

SECTION IV – PROPERTY INFORMATION

1. Site Boundaries

The Site is located at 38-01 Queens Blvd. in the Borough of Queens, Long Island City, New York. *See Exhibit C, Site Location Map, Base Map, and Photographs of the Site.* The Site is approximately 0.52 acres and abuts both Queens Blvd and 38th Street (Coordinates: 40°44'39.5"N 73°55'37.2"W). *See Exhibit E, Legal Description.* The Site encompasses a single tax block and lot; therefore, the metes and bounds of the Site match the Site description and deed:

Parcel Address	Section No.	Block No.	Lot No.	Acreage
38-01 Queens Blvd, Queens New York 11101		219	9	0.52

See Exhibit F, Tax Map.

2. Property Map

The Site Location and Base Property Map are in Exhibit C.

[Please refer to Questions 3-9 on the BCP Application Form]

10. Property Description Narrative

A. Site Location

See Response to Section IV.1 and IV.2 above. The site is located in an urban area.

B. Site Features

The Site features the largest manufacturer of screw machine parts in the country operated by Liberty Brass Turning Company, a/k/a Ideal Trading Co., Inc., which entity is the owner of the Site. See Exhibit B deed. The Site includes one building, with the portion abutting Queens Blvd. containing two levels. Due to competition from China, the plant is permanently closing its operations.

The structure on the Site consists of two floors along Queens Boulevard; the rest, and majority of the structure, is the single story manufacturing building extending south to north. The two-story portion contains offices while the single-story portion contains the machinery associated with production of machine parts. The manufacturing portion of the building contained large machinery utilizing oil for cutting and refining; residual oil leaks were noted adjacent to nearly all machinery. These oily areas were covered in either Speedi-dry or saw dust. The concrete slab floor throughout the facility was largely covered with a slick film of oil from the cutting and refining processes. Drums containing trichloroethylene and dyes were stored throughout the facility.

Multiple compressors were observed throughout the property utilizing fuel oil. Two 1,000 gallon aboveground storage tanks were observed along the northern side of the property; one tank contained heating oil for the facility and the other was reported to contain the cutting oil used for the machining processes. The age of the tanks was unknown but both appeared to be in good condition. One manhole cover, two floor drains and two flush-to-grade monitoring well curb boxes were observed in the northwestern corner of the property, which is the location of a closed-in-place underground storage tank, according to the current operator. Adjacent to this tank area is the basement where the furnaces are located. This basement floor and much of the room, was oil-stained. Two floor drains were located in the basement, one to the south of the furnaces and one to the north of the room containing the furnaces.

One waste oil tank was located centrally in the manufacturing portion of the building; brass that was to be scrapped after refining was rinsed of oil in this area and the waste oil washed from these scraps was captured in the above ground waste oil tank and reused in the refining process.

Four monitoring wells and multiple fill port/vent lines were present along the sidewalk to the west of the facility. The adjoining property to the east of the subject property is currently a carwash and oil change facility; historically it was a gas station.

The surrounding land uses are characterized as retail, commercial, and manufacturing.

See Exhibit C, Base Map including Adjacent Property Owners listed on the back. A property to the southwest of the Site is the Queens Health Center. To the west of the Site is a Church. To the north is a taxi storage and repair shop. To the east of the Site are restaurants, retail stores, auto shops, and a car wash. The entire area surrounding the Site is zoned manufacturing (specifically M1-4), but the neighborhood now clearly supports commercial, retail, manufacturing, and residential.

C. Current Zoning and Land Use

The Site is currently the location of an active metal plating screw manufacturer. It is located within one zoning district: a manufacturing district specifically called M1-4. See Exhibit I, Zoning Map. There is a Long Island City zoning resolution, but it does not cover the Site. There is no zoning resolution applicable to the Site and there are no Master Plans impacting this area of Long Island City in Queens.

Manufacturing districts, in addition to the traditional industrial uses, permit many commercial uses and, with limitations, some community facility uses. Specifically, M1 districts range from Garment Districts to two-story warehouses characterized by loading bays. M1 districts are often buffers between M2 or M3 districts and adjacent residential or commercial districts. M1 districts typically include light industrial uses, such as woodworking shops, repair shops, and wholesale service and storage facilities. Nearly all industrial uses are allowed in M1 districts if they meet the stringent M1 performance standards. Offices, hotels and most retail uses are also permitted.

The M1-4 district does have certain Floor Area Ratio (FAR) requirements. However, the proposed project for the Site will not violate these FARs, as the commercial portion of the proposed project has a FAR less than 2.0, and the community facility portion of the proposed project has a FAR less than 6.5. See NYC Zoning Data Tables at http://www.nyc.gov/html/dcp/pdf/zone/zh_tables.pdf. Furthermore, in an M1-4 district, the NYC zoning code notes that a building cannot exceed 60 feet above the street line. Again, the proposed project does not violate this height restriction, as it will not exceed 60 feet above the street line.

The Site is consistent with historic and recent development patterns. This proposed redevelopment promotes the development and expansion of the longstanding mix of commercial and manufacturing uses promoted in the Long Island City Area by taking what will be a shuttered and solvent contaminated manufacturing site, and converting it into a new commercial facility. See Exhibit I, Zoning Map.

The surrounding land use is characterized as retail, commercial, and manufacturing. See Exhibit C, Base Map including Adjacent Property Owners and Uses. A property to the Southwest of the Site is the Queens Health Center. To the west of the Site is a Church. To the north is a taxi storage and repair shop. To the east of the site are restaurants, retail stores, auto shops, and a car wash. The entire area surrounding the Site is zoned manufacturing (specifically M1-4), but the neighborhood now clearly supports commercial, retail, manufacturing, and residential.

D. Past Use of the Site

The Site has a long history of manufacturing brass hardware parts. The Sanborn maps from 1970 until 2006 indicate manufacturer of screw machine products and hardware. *See* Sanborn Maps in Sheffler Phase I Environmental Assessment of 38-01 Queens Boulevard on April 3, 2015. Prior to the manufacturing of the brass hardware parts, the 1950 Sanborn map indicates the production of perfume novelties spray top, which were also probably spray coated with metals and recording equipment. Specifically, the manufacturing of the brass spray tops for perfume bottles and metal plating was conducted on the site dating back to 1917. The previous owners of the Site include: Peter Zuckerwise who immediately preceded the current owner; Max Zuckerwise from approximately 1950 to 1979; and Iron Trade from 1917 to 1950. The Site was found to be vacant pre-1915. *See* Previous Owners and Operators Chart in Exhibit J.

The various metal plating operations that have been present on the Site over the years has resulted in numerous potential sources of contamination over the years, as detailed in Exhibit H, Data Summaries.

E. Site Geology and Hydrogeology

The geology of Queens County is part of the Long Island hydrogeological system and Long Island Lowlands. The surface of the Long Island Lowlands is modified and covered by glacial deposits from the most recent glaciations (Wisconsin Stage), and consists of moraine deposits, glacial drift, and outwash materials. In a roughly north-south cross section, the geology can be characterized as a wedge-shaped layer of Cretaceous and Pleistocene unconsolidated sediments, thickening to the south-southeast. Several impermeable layers of clay are found within this sediment package, generally creating three distinct aquifers. Bedrock on this Site is 100 feet below grade surface. Several impermeable clay layers are found within this sediment package, generally creating three distinct aquifers. Soil beneath the Site consisted of several feet of fill material followed by native fine to coarse sands with silt and gravel. Intermittent clay layers were noted in the boring logs.

The Site is at an elevation of approximately 23 feet above mean sea level (Site topography is generally flat, with a very slope to the west. The nearest surface waters to the Site are the tributary Newton Creek, located 0.63 miles southwest of the Site, and the East River, located 2.5 miles northwest of the Site. The geography of the area is a generally flat, with a gentle slope to the west and is located in an industrial and commercial neighborhood. The Site has a slight downward slope to the west. The Site contains no soil covered areas, vegetation, or landscaping. The closest storm drains are located in the sidewalk next to the Site.

The Site is not in a Flood zone. *See* Exhibit L.

F. Environmental Assessment

Based on the investigations conducted to date, the primary contaminants of concern are chlorinated VOCs (most significantly TCE), petroleum VOCs (most significantly Benzene), SVOCs (most significantly Naphthalene), and heavy metals (most significantly arsenic and mercury).

Soil: The Site contains many unrestricted Track 1 soil level exceedances such as TCE, Benzo(a)anthracene, Benzo(b)fluoranthene, Nezo(k)fluoranthene, Indeno(1,2,3-cd)pyrene, Arsenic, Chromium, Vinyl Chloride, Acetone, Mercury, Nickel, Selenium, and Silver. Most alarming is the Site contains commercial soil exceedances in regards to Benzo(a)pyrene, Lead, Mercury, Cadmium, Copper, and Zinc. Furthermore, Chromium exceedances were found in every sample it was analyzed in. The Site also includes exceedances of the commercial soil cleanup objectives for Benzo(a)pyrene, Cadmium, Lead, Mercury, Copper, Zinc. *See* Exhibit H Data Summary tables of soil exceedances and Site Drawing Map (i.e. Spider Map) #1. The remedial goal will be to achieve a Track 1 cleanup on this Site.

Groundwater: The environmental reports analyzed above indicate exceedances of the Part 703 Water Class GA standards in three separate sampling locations on the Site and immediately off-Site. The Reports revealed arsenic, chromium, and lead exceedances in groundwater under the adjacent sidewalk located directly in front of the northwest corner of the building (loading dock). Additionally, groundwater was discovered to be contaminated with, but not limited to, TCE, MTBE, Benzene, Naphthalene, above the Part 703 Water Class GA standards in the location of the northern loading dock. *See* Exhibit H Data Summary tables of groundwater exceedances and Site Drawing Map (i.e. Spider Map) #2.

Soil Vapor: Lastly, five (5) separate sampling locations at the Site have extremely high exceedances of TCE in soil vapor (670,000 mcg/m³; 29,000 mcg/m³; 47,000 mcg/m³; 23,104 mcg/m³; and 19,343 mcg/m³) that exceed the New York State Department of Health Indoor (NYSDOH) Air Guidance Values of 5 mcg/m³. Additionally, two locations contain exceedances for PCE. The Soil gas samples also detected Acetone, Benzene, Carbon Disulfide, cis-1,2, Dichloroethene, Toulene, and m,p-xylene. *See* Exhibit H Data Summary tables of soil vapor exceedances and Site Drawing Map (i.e. Spider Map) #3.

Sediment: Sediment samples were collected from the northern portion of the property; from the base of the eastern loading dock floor drain (SD-01) and the dirt-bottom interior sump (SD-02). Twenty-one (21) VOCs were detected in SD-01. *See* Exhibit H, Soil and Sediment Data Summary Tables, and Site Drawing # 4. Five (5) of those VOCs exceeded the Unrestricted SCO (cis-1,2,Dichloroethene, Trichloroethene, Vinyl Chloride, Acetone, and t-1,2-Dichloroethene). Also, total xylenes were detected in SD-01 at a level that exceeds the Unrestricted SCOs. Furthermore, twenty-three (23) metals were detected in SD-01, ten (10) of which had exceedances of the Unrestricted SCOs. Four (4)

of those metal detections also significantly exceeded the Commercial SCOs (Cadmium, Lead, Copper, and Zinc). Additionally, SD-02 had detections of twenty-three (23) metals; nine (9) of which exceeded the Unrestricted SCOs. The same four metals found in SD-01 that exceeded the Commercial SCOs, were also detected exceedances in SD-02. *See Exhibit H, Soil and Sediment Data Summary Tables, and Site Drawing # 4.*

In sum, the reports performed to date on the Site reveal exceedances of the Track 2 commercial and Track 1 unrestricted soil cleanup objectives, the groundwater standards and the vapor standards. For further details, *see* the Data Summaries in Exhibit H and Site Drawing Maps in Exhibit H provided by Langan.

11. Tangible Property Eligibility

The Supplemental Questionnaire for the Tangible Property tax credits has been completed because this Site may fall into either the upside down definition (although this cannot be determined until more investigation is performed on the Site) or the pending underutilized definition, which is subject to ongoing regulatory review, since the Site is clearly underutilized in the traditional sense as it is about to be an abandoned, solvent contaminated manufacturing facility.

SECTION V- ADDITIONAL REQUESTOR INFORMATION

See Section I, Requestor Information.

SECTION VI- CURRENT PROPERTY OWNER/OPERATOR INFORMATION

The owner of the Site is Ideal Trading Co., Inc., which company has owned the Site since 1950. *See* the attached deed in Exhibit B. Liberty Brass Turning Company, Inc. is the operator of the brass hardware manufacturer on the Site, however, sometimes the Ideal Trading Co. name is used as the operator. The Requestor and Owner are not related entities. The Requestor has no relationship with any prior owners and operators.

Previous Property Owner/Operator List

See Exhibit J.

SECTION VII- REQUESTOR ELIGIBILITY INFORMATION

In addition to the information contained in the application, the Requestor is eligible as a

volunteer because it has no prior relationship with any prior or current operations on the Site or ownership of the Site during the time the Site became contaminated, and is willing to voluntarily perform the final environmental remediation work on the Site.

[Please Refer to Questions 1-11 on the BCP Application Form]

A site access agreement executed by the Site owner is attached because Curbcut Queens Blvd LLC is not yet the owner of the Site. *See Exhibit D.*

SECTION VIII- PROPERTY ELIGIBILITY INFORMATION

In addition to the responses on the application form, which clarify the Site is an eligible brownfield site pursuant to the brownfield site exceptions in ECL §27-1405, the following information further demonstrates this Site's eligibility for the BCP.

The Site meets the definition of an eligible "brownfield site", defined by statute as "real property, the redevelopment or reuse of which may be complicated by the presence or potential presence of a contaminant" by the Department. Environmental investigation results show evidence of impact from the Site's previous manufacturing and commercial uses. *See Phase I Reports, Phase II Reports, and Exhibit H, providing the data demonstrating exceedances of the cleanup standards for this Site. As a result, the Site meets the definition of a brownfield site pursuant to Environmental Conservation Law §27-1405(2) above.*

SECTION IX - CONTACT LIST INFORMATION

- 1. The chief executive officer and planning board chairperson of each county, city, town and village in which the property is located.**

- a. The Chief Executive Officers:**

Borough of Queens
President Melinda Katz
120-55 Queens Boulevard
Kew Gardens, New York 11424
(718) 286-3000

The City of New York
Mayor Bill de Blasio
City Hall
New York, New York 10007
(212) 639-9675

b. The New York City Planning Commission:

City of New York Planning Commission
Queens Borough President Irwin G. Cantor, P.E.
120-55 Queens Boulevard
Kew Gardens, New York 11424
(212) 504-4115

City of New York Planning Commission
Chair Carl Weisbrod
22 Reade Street
New York, New York 10007
(212) 720-3300

c. The Queens Borough Planning & Development Office

Borough of Queens, Department of Planning and Development
Director Irving Poy
120-55 Queens Boulevard
Kew Gardens, New York 11424
(718) 286 2860

2. Residents, owners, and occupants of the Site and properties adjacent to the Site:

See Exhibits G, Site Contact List.

3. Local news media from which the community typically obtains information:

a. National Newspapers

New York Daily News
450 W 33rd St New York, NY 10001
Tel 212-210-2100
Fax 212-643-7831

b. Borough Specific Newspapers

The Queens Gazette
42-16 34th Avenue
Long Island City, New York 11101
(718) 361-6161

The Long Island City/Astoria Journal
69-60 Grand Avenue
Maspeth, New York 11378

(718) 639-7000

The Queens Chronicle
62-33 Woodhaven Boulevard
Rego Park, New York 11374
(718) 205 0150

4. The public water supplier that services the area where the Site is located:

New York City Department of Environmental Protection
59-17 Junction Boulevard
Flushing, New York 11373
(718) 595-7000

5. Any person who has requested to be placed on the Site contact list:

No one has requested to be put on the list to date. However, a site contact list has been created consisting of all adjacent property owners.

6. The administrator of any school or day care facility located on or near the Site:

The schools/day care facilities listed below are located within a one-half mile radius of the Site:

P.S. 150 Queens
Carmen Parache, Principal
40-01 43 Avenue, Queens, NY 11104
(718) 784-2252

I.S. 125 Thom J. McCann Woodside
Judy Mittler, Principal
46-02 47 Avenue, Queens, NY 11377
(718) 937-0320

Sunnyside Community Services, Inc.
Kenneth Lauritzen, Division Director
43-31 39th Street
Sunnyside, New York 11104
(718) 784-6173

Aviation High School
Deno Charalambous, Principal
45-30 36th Street
Long Island City, NY 11101
(718) 361-2032

Queens Vocational and Technical High School
Melissa Burg, Principal
37-02 47th Avenue
Long Island City, NY 11101
(718) 937-3010

The Children's Lab School
Brooke Barr, Principal
P.S. 343Q
45-45 42nd Street
Sunnyside, NY 11104
(718) 361-3300

Long Island City YMCA
Sharon Greenberger, President
32-23 Queens Boulevard
Long Island City, NY 11101
(718) 392-7932

P.S. 199 Maurice A Fitzgerald
Luis Alban, Principal
39-20 48th Ave
Sunnyside, NY 11104
(718) 784-3431

P.S. 110
Karyna Tejada, Principal
43-18 97th Place
Queens, NY 11368
Phone: 718-472-2491

Middle College High School at LaGuardia Community College
Linda Siegmund, Principal
3101 Thomson Ave
Long Island City, NY 11101
(718) 392-2341

International High School at LaGuardia Community College
Eric Nadelstern, Principal
45-35 Van Dam St
Long Island City, NY 11101
(718) 392-3433

Sunnyside Friends (QBMP)
Melissa Dellger
41-32 44 Street

Queens, NY 11104
(718) 786-4644

7. The location of a document repository for the project (e.g., local library):

See Exhibit K.

Joseph Schiavone
Queens Sunnyside Librarian
43-06 Greenpoint Avenue
Long Island City, NY 11104
(718) 784-3033
Hours: Mon (9AM-8PM); Tues-Wed (1PM-6PM); Thurs(12PM-8PM); Fri
(10AM-6PM); Sat(10AM-5:30PM); Sun (Closed)

8. The local community board:

Borough of Queens, Community Board 1
*(Includes neighborhoods of: Astoria, Old Astoria, Long Island City,
Queensbridge, Ditmars, Ravenswood, Steinway, Garden Bay, and
Woodside)*
45-02 Ditmars Boulevard
LL, Suite 125
(The Pistilli Grand Manor)
Astoria, New York 11105
Phone: 718-626-1021
Fax: -718-626-1072
Chair: Vinicio Donato
District Manager: Lucille T. Hartmann

SECTION X- LAND USE FACTORS

1. Current Zoning

The Site is currently an active brass hardware manufacturer. It is located within the manufacturing zoning district, specifically M1-4. There are many restaurants, community related buildings located adjacent to the Site such as a church, Health Center, and community services center. As mentioned above, M1 districts include industrial uses, but also allows for offices, hotels, and retail uses. Therefore, the City has permitted commercial uses in the M1-4 zone. As a result, both the industrial and commercial zoning/allowed use boxes are checked on the application in this Section.

2. Current Use

This Site is currently an active brass hardware manufacturer. The contaminant sources stem from the current and former use of the property as a hardware manufacturer and metal plating operations, and include former USTs containing fuel oil and waste oil. *See* Section IV.10, Property Narrative for a more detailed description.

3. Intended Use Post Remediation

Post remediation use of the Site will be commercial retail store. *See* Section II, Project Scope for a more detailed description.

4. Do current historical and/or recent development patterns support the proposed use?

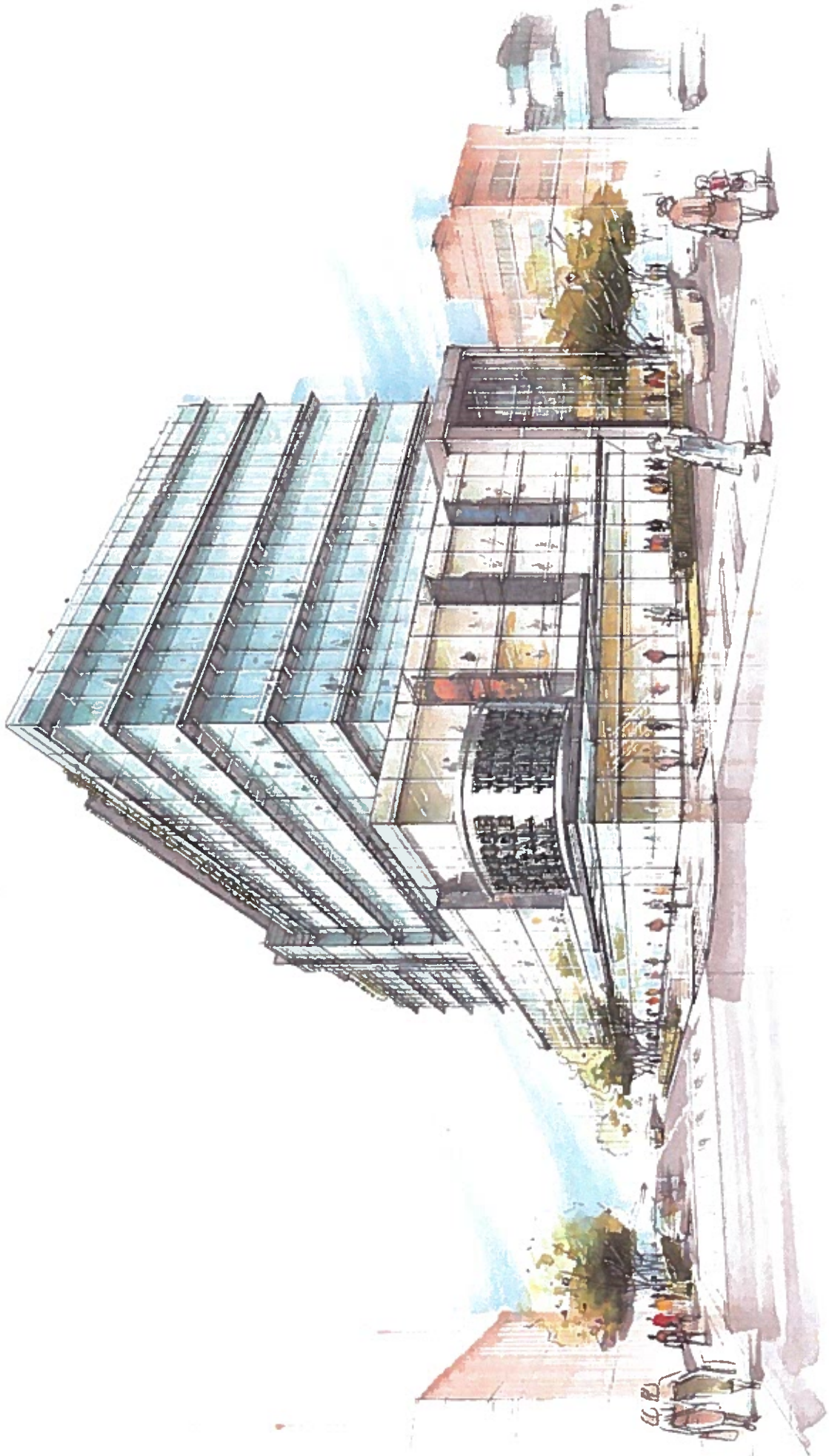
Yes. Sanborn Maps show that this area has been in use since 1920 for commercial and manufacturing uses.

5. Is the proposed use consistent with applicable zoning laws/maps?

The Site will continue to be used for commercial purposes. The project will be consistent with the adjacent properties by providing services to the Long Island City residents and the nearby Sunnyside Residential neighborhood.

6. Consistent with the Master Plan?

There is currently no Master Plan applicable to the Site.



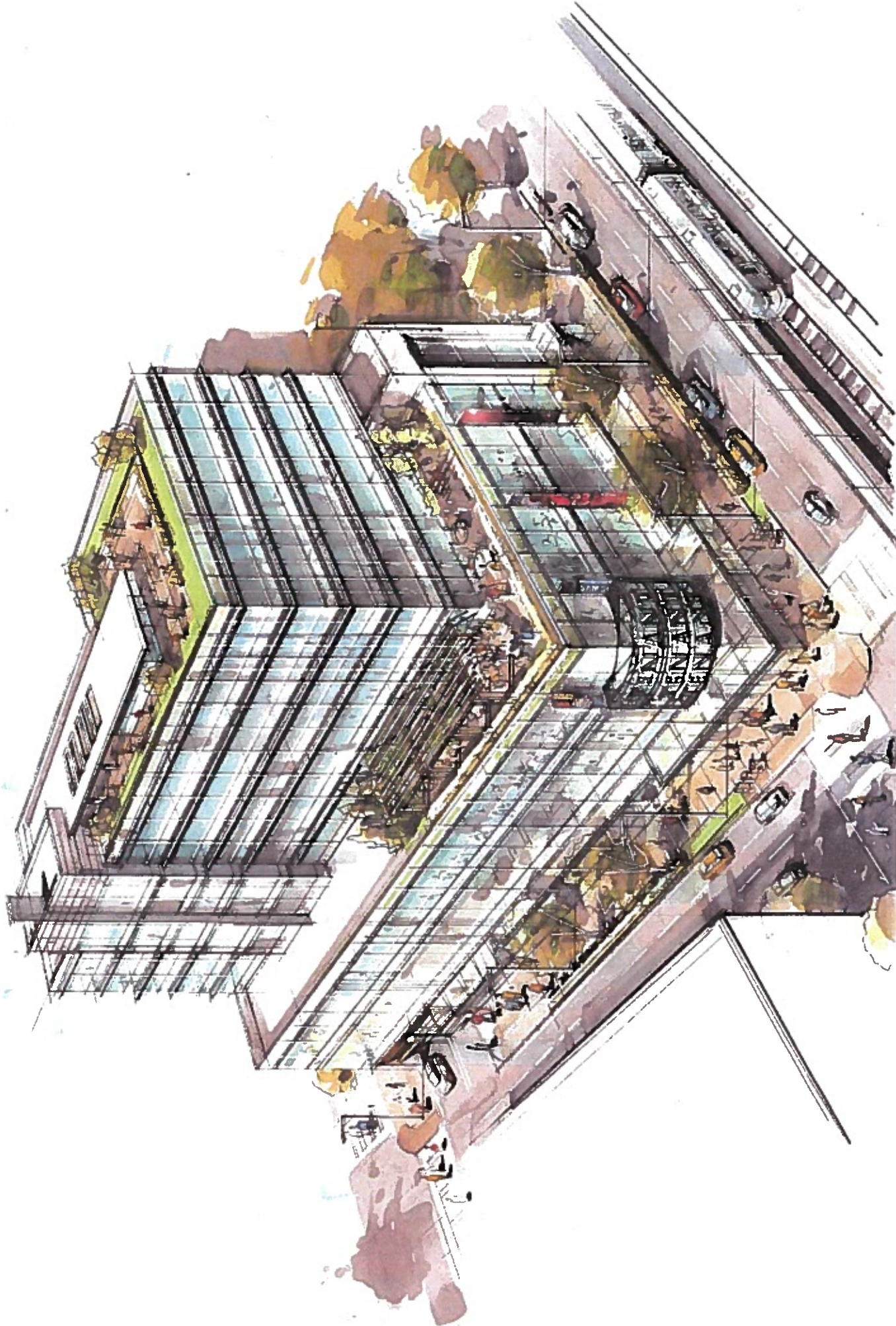


EXHIBIT C

FINANCIAL EXPERT CERTIFICATION

In Support of New York State Brownfield Cleanup Program ("BCP")
Tangible Property Tax Credit Underutilized Site Financial Analysis

CERTIFICATE ISSUER(S):

Name of Financial Expert: HR&A Advisors

Qualifications: See Attached in Exhibit A

BCP PARTY:

Name: Curbcut Queens Blvd LLC

Address: 97-77 Queens Blvd, Suite 620
Rego Park, NY 11374

NYSDEC BROWNFIELD CLEANUP AGREEMENT:

Agreement Execution: 12/18/2015

Agreement Index: C241178-11-15

Application Approval Amendment: 07/20/2016

SITE INFORMATION:

NYSDEC Site No.: C241178

Site Name: Former Liberty Brass Site

Site Owner: Curbcut Queens Blvd LLC

Site Address: 38-01 Queens Blvd, Long Island City 11101

Municipality: City of New York

County: Queens

NYSDEC Region: 2

Site Size: .520 acres

Tax Map Identification Number(s): 219-9

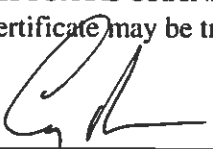
Percentage of Site located in an EnZone: %0

CERTIFICATE ISSUANCE

The Certificate Issuer has performed a financial analysis required pursuant to Title 6 of New York State's Code of Rules and Regulations ("NYCRR"), Part 375, Section 3.2(l)(2)(ii), to determine if the proposed development could take place without substantial government assistance. Based on the financial analysis performed, the Certificate Issuer has concluded the proposed development could not take place without substantial government assistance. The financial analysis is attached hereto in Exhibit B. This Certificate may be relied upon by the City of New York ("City") when the City issues its Certificate to the New York State Department of Environmental Conservation

CERTIFICATE TRANSFERABILITY

This Certificate may be transferred to the Certificate holder's successors or assigns.

By: 

Date: 10/10/17

Name of Certificate Issuer and Company
Title of Issuer

Cary Hirschstein
Partner, HR&A Advisors, Inc.

 10/10/17
ROXANNA TORHAN
NOTARY PUBLIC STATE OF NEW YORK
NO. 01TO6339536
QUALIFIED IN NASSAU COUNTY
COMMISSION EXPIRES APRIL 4, 2020

MEMORANDUM

To: Mayor's Office of Environmental Remediation

From: HR&A Advisors, Inc.

Date: July 18, 2017

Re: New York State Brownfield Cleanup Program, BCP Site # C241178
Financial Assessment, 38-01 Queens Boulevard, Long Island City, Queens

Introduction

In June 2015, the New York State legislature amended the Brownfield Cleanup Program (BCP) to include new limitations on eligibility for Qualified Tangible Property (QTP) tax credits for New York City (NYC) brownfield sites. The program only allows NYC sites that meet a new multi-part test, pursuant to a regulatory definition in 6 N.Y.C.R.R. §375-3.2(l) for "underutilized" sites, to qualify for the QTP tax credits. This Financial Assessment Memo is only related to one part of this multi-part test, which requires the City of New York ("City") to certify whether the BCP party seeking QTP eligibility has demonstrated that their project is financially infeasible without government assistance (the "Financial Test").

Acting on behalf of the City, which is responsible for making a certification of the Financial Test, the Office of Environmental Remediation (OER) requested that an independent financial advisor be retained to assess whether the proposed development could take place without substantial government assistance, and if so, certify the property as "underutilized" under BCP program rules. Curbcut Queens Blvd LLC (Curbcut) engaged HR&A Advisors, Inc. (HR&A) to develop a methodology and conduct an independent, third-party review of Curbcut's financial pro forma to determine whether the project meets the financial justification portion of "underutilized." This methodology was provided to OER for approval, which enabled the analysis to proceed.

Under the regulatory site definition of "underutilized," the City must issue its certification to the New York State Department of Environmental Conservation (NYSDEC) after review of this independent financial analysis to determine if the Financial Test is met. The NYSDEC then analyzes the additional documentation provided by the BCP Party required to meet the other elements of the multi-part "underutilized" standard. As we understand from Curbcut and Knauf Shaw LLP, the additional documentation has already been provided by Curbcut to NYSDEC and has not received any objections.

In this case, the City has asked for an independent third-party analysis to evaluate whether or not the Curbcut BCP Site # C241178, located at 38-01 Queens Boulevard in Long Island City, Queens (the Site) satisfies the Financial Test. While it is our understanding that this memo addresses an analysis of the first such property to claim status as an "underutilized" site under the BCP, HR&A contends that the type of analysis performed in this memo satisfies the Financial Test required by the underutilized definition.

The Site was accepted into the Brownfield Cleanup Program on December 18, 2015 and has reached the remediation stage of the BCP. The Site is currently undergoing active remediation. As reported by Curbcut,

it is HR&A's understanding that once remediation commenced, Curbcut encountered even more environmental challenges than were known when the Remedial Action Work Plan was approved. Curbcut reports that remediation and building conditions became more difficult as a result of large boulders not discovered during the extensive subsurface Remedial Investigation and full geotech examination, complications with MTA approvals due to two-thirds of the property being within 200 feet of the elevated #7 subway, as well as more expensive remediation conditions. Curbcut reports that these issues have collectively resulted in increased costs for the project.

This memorandum reports the results of the financial assessment. HR&A verified and applied Curbcut's baseline rent, financing, and construction assumptions to determine whether the project would be financially viable without government assistance. As discussed further, HR&A's analysis concludes that the proposed development project would not meet target return thresholds absent further public subsidy—in this case the QTP—and therefore meets the financial requirements of the BCP's definition of an "underutilized" property.

Project Overview

The Site historically housed a brass and aluminum fittings manufacturer called Liberty Brass. At the time of purchase, the structural stability of the building was in question as documented in the Harman Group's *Structural Assessment of Existing Building*, dated March 28, 2016, and significant environmental remediation work within the building and at the Site was also required. There was also evidence that some onsite contamination had migrated offsite. The chlorinated solvent contaminant of concern—trichloroethylene or TCE—is also one of the most difficult types of contaminants to remediate from a BCP Site.

Curbcut was initially required to perform site preparation activities, including the abatement of significant asbestos within the building, and then demolish the structurally unsound Liberty Brass building. Curbcut engaged a number of consulting firms during the acceptance into the BCP to evaluate remediation costs based on the data known to date at that time. Environmental engineers, including Langan Engineering and PW Grosser, worked with Curbcut to define and develop the necessary remediation cost estimates. PW Grosser was then selected to be the Engineer of Record and prepared the Remedial Action Work Plan (RAWP) after conducting the more detailed Remedial Investigation (RI). The RI revealed more contamination than earlier Phase II investigations when the Site was accepted into the BCP. The RAWP included the following remedial actions, but were not limited to:

- storage tank removal,
- soil excavation and disposal down to depths of at least 20 feet and potentially even lower in the hot spots,
- sheeting and shoring to support the large, deep excavation,
- installation of a sub-foundation vapor barrier,
- underpinning and tie-backs required under the adjacent properties, lot 18 and lot 34, and
- Sub-Slab Depressurization System (SSDS) due to likely residual soil vapor in the near term.

Remediation work is currently underway at the Site, which is expected to continue through this summer. The project has experienced a delay thus far due to the presence of subterranean boulders on the Site, which resulted in a \$750,000 of change orders to date, to provide the required machinery to perform the necessary remediation, and more time to complete the work. It was originally estimated that the installation of the Support of Excavation would average two piles to a depth of 40 feet a day. According to Curbcut, the need for MTA approval due to the location of the nearby elevated #7 subway also caused project delays and increased costs.

Curbcut reported additional detail on the remediation conditions onsite. Before the rock hammer was approved by the MTA to be used onsite, work was proceeding at almost two piles a week. As described by Curbcut, after two months of delay, the MTA allowed for the use of a rock hammer to address continued refusals due to massive boulders. According to Curbcut, while this has helped the work progress, the work continues at a slower pace than normal with one pile being installed every one to two days. Finally, it is still unclear if the anticipated Track 1 cleanup can be achieved since the excavation depth has still not reached the bottom even though excavation work commenced four months ago and is currently 30 percent complete.

The project is located within the Long Island City Industrial Business Zone (IBZ) in an M1-4 manufacturing district. Curbcut's proposed as-of-right development program, per SBLM Architects' drawings dated May 13, 2017, includes 82,300 square feet of medical office, a 29,200 square foot movie theater complex,

1,000 square feet of ground floor retail, and 70 underground parking spaces. The proposed commercial building will be 136 feet tall.

The Site is eligible for commercial tax abatements through New York City's Industrial and Commercial Abatement Program (ICAP), which applies to most new commercial construction in Long Island City and reduces ongoing expense reimbursement costs incurred by tenants in the building. In addition, the Site is eligible for BCP Site Preparation Tax Credits (SPCs). These incentives are factored into this financial analysis.

Methodology

Overview

HR&A's financial analysis included the following tasks:

- Review of the developer's cost and revenue assumptions,
- Establishment of a threshold developer return metric,
- Preparation of an independent financial pro forma to assess project feasibility, and
- Assessment of whether a potential project funding gap exists.

The **real estate pro forma** is an analytic tool that a developer employs to calculate the potential financial return that a proposed development is likely to create. Inputs to the model include **revenues** (i.e., rents) likely to be achieved, as well as **costs** that will be incurred (i.e., construction costs, debt service). Developers calculate these inputs to forecast expected future cash flows, establish the required total return, and discount the cash flow back to the present at a required rate of return.

The internal rate of return (IRR) value is an industry-standard indicator of project profitability and reflects the impact of time on the investment and subsequent returns. Leverage in the form of permanent and construction financing can increase a project's return and results in a "levered IRR." To establish a benchmark levered IRR, HR&A referred to past financial analyses for development projects, including a large adjacent project in Long Island City, prepared on behalf of the New York City Economic Development Corporation (NYCEDC). HR&A and the NYCEDC confirmed that an **acceptable levered IRR would fall between 16 and 18 percent**. HR&A's past assignments for private developers in outer borough locations have also utilized these IRR benchmarks to test project feasibility. Lastly, HR&A believes this IRR range is reasonable given the project's risk profile, as the project does not have committed office and retail tenants in place, and exists in a neighborhood which is unproven for medical office product and located on a site which requires costly environmental remediation. In addition, project development will be further constrained if Track 1 remediation cannot be achieved through the imposition of an environmental easement and long-term vapor mitigation controls are potentially needed in the form of the SSDS.

Curbcut provided HR&A with a financial pro forma. HR&A reviewed this pro forma in advance of preparing an independent financial model that incorporates verified revenue and cost assumptions (discussed in the next section) to determine whether the proposed development would reach a target levered IRR without substantial government assistance. HR&A calculated a **baseline scenario** reflecting Curbcut's verified assumptions, and completed a **sensitivity analysis** to understand how project returns would be impacted by different market conditions. Projects not assumed to reach an acceptable return threshold are unlikely to be pursued by a developer absent subsidy; projects with acceptable return projections are likely to be pursued.

Revenue and Cost Assumptions

HR&A conducted due diligence research and analysis to confirm or adjust Curbcut's key revenue and cost assumptions. Revenues and costs fall into two categories—ongoing and upfront—and are described below:

Ongoing Revenues and Costs

- **Rents**, defined as rental income from tenants plus any additional revenues by land use/program. In this case, revenue-generating uses include medical office, neighborhood retail, and parking.
- **Operating costs**, calculated as regularly recurring costs that are paid on an ongoing basis by the building's owner and not reimbursed by tenants (e.g., management fees, and reserves).
- **Vacancy reserve**, defined as the share of a building assumed to be vacant at any given time following upfront lease-up.
- **Net operating income (NOI)**, defined as building income which accrues to the building owner after accounting for vacancy and after deducting landlord-borne operating costs.

Upfront Costs

- **Development costs**, defined as all upfront costs incurred during the development period, such as site preparation (which included asbestos abatement and demolition), construction materials, labor, design and other professional work, permits, fees, construction loan interest, land acquisition, and environmental remediation.
- **Financing**, defined as all assumptions related to raising permanent and construction debt, including loan term, amortization period, construction timing, interest rates, closing costs, loan-to-value and loan-to-cost ratios.

For each revenue and cost assumption provided by Curbcut, HR&A conducted an independent review of data, researching comparable projects in Long Island City, reviewing professional reports submitted by Curbcut, and conducting interviews with Curbcut's team of brokers and consultants.

- **Rent assumptions.** HR&A evaluated Curbcut's projected rents for each use and compared these assumptions with rents achieved for similar projects in Long Island City. HR&A also interviewed the developer's broker representative from Cushman & Wakefield to confirm results.

Medical office: Curbcut assumed a blended rent for medical office of \$34 per square foot at triple net lease terms, meaning the tenant would cover all costs related to the ongoing operation of their space. HR&A tested this rent assumption against similar commercial projects completed in Long Island City, using comparables provided by Cushman & Wakefield. As there are no similar medical office products near the Site, we reviewed office lease comps in Long Island City generally. While few recent leases were inked as triple net, gross rents—adjusted for operating expenses—fell within a range of \$29 to \$45 per square foot.

Neighborhood retail: Curbcut assumed a \$75 per square foot net rent for its retail space. HR&A tested this rent assumption against similar projects with ground floor retail completed in Long Island City, using comps provided by Cushman & Wakefield. Recent retail leases signed in this area were between \$50 to \$128 per square foot.

Movie theater: Curbcut has already signed a lease with a movie theater operator for \$49 per square foot on a triple net basis.

Parking: Curbcut assumed a parking rent of \$2,400 per space per year. HR&A tested this rent assumption against our knowledge of commercial parking garages in Long Island City compiled from past projects. Garages in Long Island City, which are predominantly clustered in the Long Island City core, charge anywhere from \$200 to \$300 monthly per space, which translates to \$2,400 to \$3,200 per space per year.

After completing our due diligence, HR&A found that Curbcut's rent assumptions for the various uses at the Site were within a reasonable range given our knowledge of the market and conversations with Cushman & Wakefield.

- **Operating assumptions.** Curbcut's rents were modeled as triple net, meaning the tenant would cover most operating costs. In addition, Curbcut factored in several customary operating fees which HR&A reviewed.

Vacancy contingency: The pro forma analysis applied a vacancy contingency of 5 percent, which is considered standard for the market.

Reserves: Curbcut's pro forma analysis included an operating reserve of \$0.25 per square foot, which matches HR&A's understanding of reserves for ongoing maintenance and repair.

Management fee: Curbcut's analysis included a management fee of 2 percent of net operating income, which matches HR&A's understanding of ongoing management fees for New York City property managers.

- **Construction costs.** During the pre-development phase, Curbcut solicited a series of professional cost estimates from accredited third-party contractors with experience in Queens. This included estimates from the following engineers and contractors:
 - Langan Engineering: environmental remediation costs, dated October 28, 2015,
 - Sordoni Construction: vertical construction costs, dated June 30, 2017, and
 - All Building Construction Corporation: tenant improvement costs related to the movie theater, dated September 12, 2016.

HR&A reviewed all cost estimate reports. Based on the third-party reports and certain Curbcut assumptions, project total construction costs were estimated at \$396 per square foot, not inclusive of land costs, tenant improvements or leasing commissions. We then tested these costs against similar mid-rise outer borough commercial developments, including a development feasibility study completed by HR&A for NYCEDC in Long Island City. Despite the necessary environmental remediation work and development of underground parking, Curbcut's development costs are in line with new build commercial projects, which were priced between \$340 to \$435 per square foot, excluding land costs, tenant improvements and leasing commissions. Table 2 provides a summary of development costs.

- **Financing conditions.** HR&A considered financing assumptions for the proposed project, including construction and permanent financing. Based on our understanding of outer borough commercial lending, and market reports provided by C.B. Richard Ellis, we estimated Curbcut's permanent financing to be 60 percent of total development costs. Construction loan sizing, amortization, interest rates, and closing costs were deemed to be on par with New York City standards.

- **Tax credit assumptions.** Lastly, HR&A measured the different tax credit subsidies—the Site Preparation Credit and Qualified Tangible Property Credit—which could apply to Curbcut's development. We also considered the difference in the size of the tax credits should Curbcut's remediation project achieve a Track 1 or Track 2 cleanup level.¹ In addition, we considered the impact of foundation costs being excluded from SPCs. Additional information on HR&A's calculation of the SPC and QTP are provided in the appendix to this memorandum. Although the excavation is only 30 percent complete, Curbcut and the environmental engineer currently believe that a Track 1 is still achievable based on the hot spot removal and testing. However, a third of the site is still untouched, and therefore it is unknown what materials may exist below the surface.

Table 2: Development Summary

Category	Amount
Land (i.)	\$12,100,000
Closing Costs (ii.)	\$400,000
Environmental (iii.)	\$4,300,000
Hard Costs (iv.)	\$50,800,000
Soft Costs (ii.)	\$6,300,000
Tenant Improvements (v.)	\$10,000,000
Leasing Commission (ii.)	\$3,000,000
Total	\$86,900,000

(i.) New York City Department of Finance

(ii.) Curbcut Urban Partners

(iii.) Langan Engineering quoted a range between \$3.4 and \$5.1 million for environmental remediation costs prior to the commencement of remediation activities.

(iv.) Sordani Construction

(v.) All Building Construction Corporation

¹If the remediation achieves the Track 1 unrestricted use Soil Cleanup Objectives (SCOs), this yields a 50% SPC. If the remediation achieves the commercial Track 2 SCOs, this yields a 40% SPC.

Financial Analysis Summary

HR&A verified and applied Curbcut's baseline rent, financing, and construction assumptions to arrive at the project's levered IRR. As shown in Table 3, the project would generate a levered IRR of 8.3 percent without any tax credits, substantially below the 16 to 18 percent levered IRR threshold seen for developments in the New York City market. While the SPC helps to increase the project's IRR to 10.3 percent under BCP Track 2 and 10.9 percent under BCP Track 1, both scenarios do not result in an IRR that would meet target return thresholds. Introducing the QTP similarly has a positive impact on projected returns in the baseline scenario, increasing levered IRR to between 11.8 and 13.1 percent depending on Track 1 versus Track 2 designation. However, this is still below the 16 to 18 percent levered IRR threshold observed for developments in the New York City area.

Table 3: Returns Summary

	Levered IRR
Baseline	8.3%
Tax Credit Scenarios	
SPC Track 2	10.3%
SPC Track 1	10.9%
SPC + QTP Track 2, QTP Foundation	11.8%
SPC + QTP Track 1, SPC Foundation	13.1%

In order to meet NYSDEC's guidelines for QTP support, a site must demonstrate that it meets the definition of "underutilized," including the requirement of governmental assistance to move forward. Based on HR&A's independent financial analysis of Curbcut's proposed project, as reported by the developer, we find that the project does not generate an acceptable return and therefore would not proceed without governmental assistance.

Appendix: Sensitivity Analysis

HR&A conducted a sensitivity analysis that adjusted revenue and cost assumptions from the baseline analysis. These adjustments reflected variances in market conditions, as well as possible changes in construction costs and timing:

- **Medical office rents.** HR&A evaluated the impact of variability in rents on project returns for medical office space, which represents the bulk of the proposed program. This sensitivity considers the possibility of more favorably leasing activity for premier medical office space. Increasing the baseline assumption of \$34 per square foot to \$37 per square foot for medical office results in a levered IRR that is 1.8 percent higher than baseline IRR.
- **Neighborhood retail rents.** HR&A reduced the baseline rent assumption of \$75 per square foot for retail to \$69 per square foot to reflect the potential for less favorable leasing activity seen in other Queens Boulevard retail spaces. This results in a 0.1 percent lower levered IRR.
- **Construction costs.** HR&A reviewed the impact of changes in vertical development costs on project returns. Reducing contingencies by 50 percent, or assuming that the project would experience reduced cost overages, would result in a levered IRR which is 0.7 percent higher than the baseline case. This sensitivity considers the possibility of exceptional construction management and minimal unforeseen site conditions, which is atypical for a project at this stage.
- **Construction timing.** HR&A considered the impact of Curbcut's construction loan timing on project returns. Repaying the construction loan one year sooner than the baseline assumption would result in a 1.1 percent higher levered IRR. This sensitivity considers the possibility of Curbcut securing permanent financing upon completion of construction, which would occur if the project secured significant tenancies during the development period.

HR&A's sensitivity analysis confirms that, even adjusting for more optimistic rents, financing, and construction costs, the project would still likely not achieve market-standard IRRs without subsidy. Compared to baseline conditions, the combined impact of these sensitivities would increase the baseline levered project IRR from 8.3 percent to 11.7 percent with no tax credits, or 13.4-14.4 percent under Track 1 and Track 2 SPC, respectively, which is still below market returns. Note that it is unlikely that each of these assumptions would move in tandem given the generally opposite movement of rents and construction costs, among other factors, making this sensitivity analysis conservative.

Appendix

Program and Use-Specific Assumptions

Category	Office	Theater	Store	Parking	Non-Leasable
Program Assumptions					
Program Size (USF ² /GSF) ³	82,282 USF	29,148 USF	1,028 USF	-	42,652 GSF
Program Size (RSF) ⁴	112,715 RSF ⁵	29,148 RSF	1,028 RSF	-	-
Units	-	-	-	75 Spaces	-
Rent Assumptions					
Rent (per RSF/Yr.)	\$34	\$49	\$75	-	-
Parking Rent (per space)	-	-	-	\$2,400	-
Operating Assumptions					
Reserves (per RSF/Yr.)	\$0.25				
Misc. (% NOI)	1.5%				
Mgmt. Fee (% NOI)	2.0%				
Lease-up Vacancy (%)	25%				
Stabilized Vacancy (%)	5%				

² Usable square footage (USF) is the actual space in a property that is occupied, and does not include common areas of a building such as lobbies, restrooms, stairwells, storage rooms, and shared hallways.

³ Gross square footage (GSF) is the sum of all floor area in a building, including the outside faces of exterior walls, circulation, and shared space.

⁴ Rentable square footage (RSF) is USF plus a portion of the building's shared space. The increase in RSF over USF is commonly referred to as the "loss factor," which is set by the Real Estate Board of NY (REBNY).

⁵ Per REBNY standards, rentable square footage is 37 percent greater than usable square footage. This standard is applied to 38-01 Queens Blvd.

Development Assumptions

Category	Assumption
Hard Costs (per GSF)	\$355
Soft Costs Incl. Fin. & Loan Fees (%)	11%
Soft Costs (per GSF)	\$41
Total Construction Costs (per GSF)	\$396
Land Costs (Total)	\$12,070,000
Transaction Cost	3.6%
Leasing Commissions	\$9,960,780
Tenant Improvements	\$3,000,000
Timing Assumptions	
Const. Start	Year 1
Const. Completion	Year 2
Lease-Up Period	Year 3
Stabilization	Year 4
Construction Loan Take-out	Year 3

Financing Assumptions

Category	Assumption
Construction Loan	
Loan-to-Cost Ratio (%)	65%
Interest Rate (%)	6.50%
Permanent Loan	
Loan-to-Value Ratio (%)	60%
Debt Service Coverage	1.25
Loan Closing Costs (%)	1.50%
Interest Rate (%)	5.50%
Amortization Period (Yr.)	30 Years
Loan Term (Yr.)	10 Years
Exit Assumptions	
Exit Year	9 Years
Exit Capitalization Rate (%)	5.50%
Exit Sale Costs (%)	3.6%
Inflation Rate (% per year)	2.00%

Site Preparation Tax Credit Calculation

Category	Amount
Environmental	\$4,251,103
Select Construction Items	
Site Prep & Clear	\$206,300
Support of Excavation (SOE)	\$4,280,000
Foundation Concrete	\$2,190,000
Site Utilities	\$295,000
Flatwork, Curbing, & Paving	\$223,925
Proportional Hard Cost Contingency	\$543,716
Subtotal	\$7,738,941
Proportional Share of Indirect Hard Costs	\$1,285,163
Proportional Share of Soft Costs	\$1,114,340
Total	\$14,389,548
SPC Tax Credit (Track 1 – 50%)	\$7,194,774
SPC Tax Credit (Track 2 – 40%)	\$5,755,819

Qualified Tangible Property Credit Calculation

Category	Amount
<i>Construction Items</i>	
Foundation Concrete	\$0
Landscaping	\$54,125
Logistics & Temp Work	\$1,113,015
Concrete	\$2,354,229
Precast Concrete	\$1,380,000
Unit Masonry	\$2,068,735
Structural Steel & Deck	\$3,915,000
Miscellaneous Metals	\$739,220
Architectural Millwork	\$3,000
Roofing	\$610,000
Louvers	\$62,400
Moisture Protection	\$60,000
Fireproofing	\$452,572
Exterior Glazing	\$4,785,750
Exterior CMU	\$1,585,000
Overhead Doors	\$36,600
Furnish: Doors, Frames, Hardware	\$123,000
Interior Glazing	\$128,500
Carpentry, GWB & Ceilings	\$904,115
Tile & Stone	\$49,170
Carpet & Flooring	\$19,954
Paint & Wallcovering	\$216,135
Specialties & Equip	\$809,050
Vertical Transportation	\$2,975,000
Fire Suppression	\$783,297
Plumbing	\$715,000
HVAC	\$2,620,000
Electrical	\$4,756,952
Proportional Hard Cost Contingency	\$2,517,855
Subtotal	\$35,837,674
Proportional Share of Indirect Hard Costs	\$5,951,366
Proportional Share of Soft Costs	\$5,160,313
Total	\$46,949,352
QTP Tax Credit (Track 1 – 14%)	\$6,572,909
QTP Tax Credit (Track 2 – 12%)	\$5,633,922

EXHIBIT D

BCP PARTY CERTIFICATION

In Support of New York State Brownfield Cleanup Program ("BCP")
Tangible Property Tax Credit Underutilized Site Financial Analysis

BCP PARTY:

Name: Curbcut Queens Blvd LLC

Address: 97-77 Queens Blvd, Suite 620
Rego Park, NY 11374

NYSDEC BROWNFIELD CLEANUP AGREEMENT:

Agreement Execution: 12/18/2015

Agreement Index: C241178-11-15

Application Approval Amendment: 07/20/2016

SITE INFORMATION:

NYSDEC Site No.: C241178

Site Name: Former Liberty Brass Site

Site Owner: Curbcut Queens Blvd LLC

Site Address: 38-01 Queens Blvd, Long Island City 11101

Municipality: City of New York

County: Queens

NYSDEC Region: 2

Site Size: .520 acres

Tax Map Identification Number(s): 219-9

Percentage of Site located in an EnZone: %0

A description of the Property subject to this Certification is attached as Exhibit A.

CERTIFICATE ISSUANCE

The BCP Party hereby certifies that all information provided to the Financial Expert was complete and accurate. The BCP Party further certifies that the proposed development could not take place without substantial government assistance in satisfaction of the criterion set forth at Title 6 of New York State's Code of Rules and Regulations ("NYCRR"), Part 375, Section 3.2(l)(2)(ii).

CERTIFICATE TRANSFERABILITY

This Certificate may be transferred to the Certificate holder's successors or assigns.

Curbcut Queens Blvd, LLC

By:  _____

Date: *10/4/17* _____

Name of Certificate Issuer and Company

Title of Issuer

*Sworn to before me on this 4th day
of October, 2017*



William Lawrence Green
Notary Public State of New York
Nassau County - License # 02GR6251391
Comm. Exp. April 15, 2020

EXHIBIT A

ALL that lot of land in the Borough of Queens, City of New York, with the buildings thereon, situate, lying and being in the 1st Ward of the Borough and County of Queens, City and State of New York, bounded and described as follows:

BEGINNING at a corner formed by the intersection of the Northerly side of Queens Boulevard with the Easterly side of Van Pelt Street, now known as 38th Street,

RUNNING THENCE Easterly along the Northerly side of Queens Boulevard, as now laid out on the Final Topographical Map of the City of New York, 100 feet deed (100.03 feet survey);

THENCE Northerly parallel with Van Pelt Street, 225 feet deed (225.05 feet survey);

THENCE Westerly parallel with Queens Boulevard, 100 feet deed (100.03 feet survey) to the Easterly side of Van Pelt Street, and

THENCE Southerly along the Easterly side of Van Pelt Street, 225 deed (225.05 feet survey) feet to the corner, the point or place of **BEGINNING**.

ACREAGE: 0.5168

On behalf of the City of New York, I hereby certify, pursuant to 6 NYCRR §375(3.2)(l)(2)(ii), that the development proposed for 38-01 Queens Boulevard, Long Island City, NY 11101 by Curbcut Queens Blvd. LLC could not take place without substantial government assistance. My certification is based solely on the BCP Party Certification of Oren Sauberman dated October 4, 2017 and the Financial Expert Certification of Cary Hirschstein dated October 10, 2017.

Dated: OCTOBER 16, 2017



Daniel C. Walsh, Ph.D.

Director

New York City Mayor's Office of
Environmental Remediation

EXHIBIT E



THE HARMAN GROUP
structural engineering
parking planning and design

28 MARCH 2016

BEN MALINSKY
CurbCut Urban Partners

Principals:

D. Kirk Harman, PE, SE, FACI, SECB
Malcolm D. Bland, PE, LEED AP
Clifford W. Schwinger, PE, SECB
Janis B. Vacca, PE, LEED AP

Associates:

Todd R. Campbell, PE
William F. Kavanagh, AIA, NCARB
Kenneth T. McCarron

New York:

14 Penn Plaza
225 West 34th Street
Suite 1416
New York, New York 10122
212.433.2326

Philadelphia:

900 West Valley Forge Road
Suite 200
King of Prussia, PA 19406
610.337.3360

www.HarmanGroup.com

RE: STRUCTURAL ASSESMENT OF EXISTING BUILDING AT 38-01 QUEENS BOULEVARD, QUEENS, NY

Ben,

This report presents our assessment of the structural integrity of 38-01 Queens Boulevard building located on Block 219, Lot 9.

Building Description

The building was used as a brass turning facility before emptied. It is a single story building with a mezzanine office level at front and a small basement used as boiler room below grade.

Site Visit and Observations

Site visit was performed on Wednesday, March 23rd.

The primary structural system is observed to be brick encased steel columns with long span steel roof joists located at columns lines. Wooden roof joists are used as filler beams in between steel joists. Floor is concrete slab on grade. Mezzanine office level is wood framing and building exterior is brick.

Building roof is observed to be in very bad condition. At many locations throughout the building, roofing is deteriorated and roof boards are found to be either rotten or broken. Majority of the wood roof filler beams are observed to be soaked due to rainwater coming into the building through openings at the roof.

Party wall along north property line is observed to have a large diagonal crack continuing into the wall footing. Retaining wall along north face of the basement also had a diagonal crack.

Mezzanine level floor framing was found to be in very poor condition. Floor is sagging and the base boards are deteriorated. Ceiling is also sagging at many locations throughout offices.

Exterior brick wall along 38th Street is observed to have out of plane movement.

We listen. We respond. We deliver.

Condition of roof



Condition of party wall, foundation and retaining wall

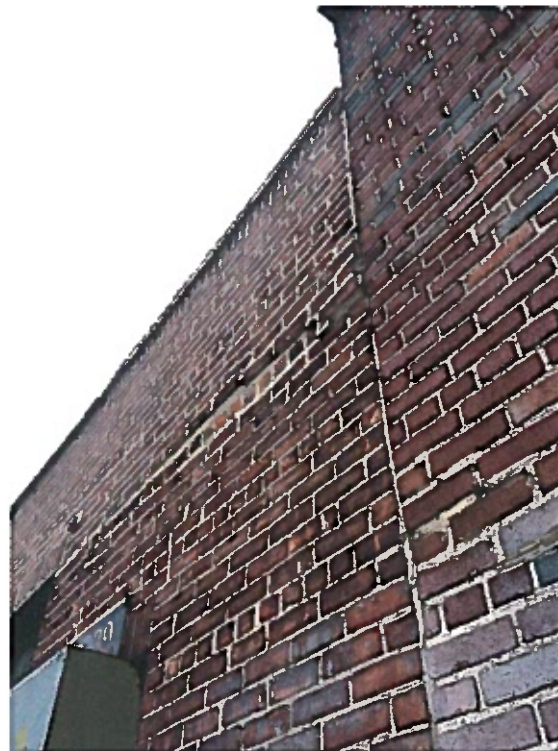


THE HARMAN GROUP
structural engineering
parking planning and design

Condition of mezzanine



Condition of exterior wall



THE HARMAN GROUP
structural engineering
parking planning and design

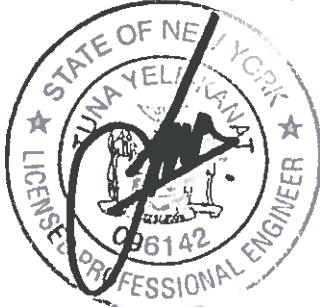
Conclusion

Overall building stability is questionable. Heavy damage at roof structural elements may lead to partial or full collapse of the roof. Cracks at the party wall and its' foundation along north property line creates an unstable condition for the support of the roof above.

Cracks observed at the retaining wall along north face of the basement is a concern and may lead to settlements at grade level due to surcharge loads and may result in sudden failure of the wall.

Movement at the exterior brick wall is believed to be due to deformation and sagging of the roof joists, pushing the brick wall outside. This may lead to partial collapse of the brick exterior wall towards sidewalk.

THE HARMAN GROUP, INC.



Tuna Yelkikanat, P.E., LEED GA
Director – New York Office

Proj #216027



THE HARMAN GROUP
structural engineering
parking planning and design